



SLP(CRL.) NO. 3678/2023 ETC.

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NO. _____ OF 2023
(@ Special Leave to Appeal (Crl.) No. 3678/2023)**

AVINASH SHARMA APPELLANT

VERSUS

THE STATE OF UTTARAKHAND RESPONDENT

WITH

**CRIMINAL APPEAL NO. _____ OF 2023
(@ Special Leave to Appeal (Crl.) No. 1559/2023)**

AND

**CRIMINAL APPEAL NO. _____ OF 2023
(@ Special Leave to Appeal (Crl.) No. 1444/2023)**

AND

**CRIMINAL APPEAL NO. _____ OF 2023
(@ Special Leave to Appeal (Crl.) No. 4276/2023)**

O R D E R

Leave granted.

The appellants in all these appeals were implicated in FIR No. 172/2022, registered on 27.04.2022 at Police Station Bazpur,

District Udham Singh Nagar, Uttarakhand, for alleged offences punishable under Sections 323, 395, 504 and 506 of the Indian Penal Code, 1860 (for short 'the IPC'). They were taken into custody in the first week of May, 2022. A final report was filed on 25.07.2022 for an alleged offence punishable under Section 307 of the IPC.

The victims are admittedly discharged from the hospital. Now a period of nearly 11 months have passed from the date of the arrest.

Though the learned counsel for the victim/de facto complainant very strongly opposed the grant of bail, we see that there were only three eye witnesses to the incident. All the three are the de facto complainant, his wife and their son. Therefore, the question of the appellants tampering with the evidence in the case may not arise. If at all the victim may have a threat perception, for which they can always exercise their right of approaching the police. No useful purpose will now be served with the continuing detention of the appellants, in view of the fact that the final report had already been filed, way back in the month of July, 2022.

In view of the above, the appeals are allowed and the common impugned order is set aside. The appellants are directed to be released on bail on such terms and conditions as imposed by the trial court.

It is open to the victim/complainant to seek adequate

protection, if at all there is a genuine threat perception.

Pending application(s), if any, shall stand disposed of.

.....J.
(V. RAMASUBRAMANIAN)

.....J.
(PANKAJ MITHAL)

NEW DELHI;
APRIL 11, 2023.
PS

ITEM NOS. (1 + 5)

COURT NO.15

SECTION II-B

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Crl.) No(s). 3678/2023

(Arising out of impugned judgment and order dated 15-10-2022 in
FBA No. 1783/2022 passed by the High Court Of Uttarakhand At
Nainital)

AVINASH SHARMA

PETITIONER(S)

VERSUS

THE STATE OF UTTARAKHAND

RESPONDENT(S)

(IA No.44562/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED
JUDGMENT and IA No.44553/2023-EXEMPTION FROM FILING O.T. and IA
No.44551/2023-CONDONATION OF DELAY IN REFILING / CURING THE
DEFECTS)

WITH

SLP(Crl) No. 1559/2023 (II-B)

(FOR ADMISSION and IA No.23341/2023-EXEMPTION FROM FILING O.T.)

SLP(Crl) No. 1444/2023 (II-B)

(FOR ADMISSION and I.R. and IA No.21629/2023-EXEMPTION FROM FILING
O.T.)

ITEM NO.5

SLP(Crl) No. 4276/2023 (II-B)

(IA No.58000/2023-CONDONATION OF DELAY IN FILING and IA
No.58001/2023-EXEMPTION FROM FILING O.T.)

Date : 11-04-2023 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. Siddharth Dave, Sr. Adv.
Mr. Nirnimesh Dube, AOR
Ms. Bansuri Swaraj, Adv.
Mr. Siddhesh Kotwal, Adv.
Ms. Ana Upadhyay, Adv.
Ms. Manya Hasija, Adv.
Mr. L.K.Tripathi, Adv.
Ms. Snehpreet Kaur, Adv.
Mr. Nihar Daharmadhikari, Adv.
Ms. Samparti Baksi, Adv.

Mr. Siddharth Dave, Sr. Adv.
Mr. Rajat Singh, AOR
Ms. Snehpreet Kaur, Adv.
Mr. Prastut Dalavi, Adv.
Ms. Aurica Bhattacharya, Adv.

For Respondent(s)

Mr. Sulaiman Mohd. Khan, Adv.
Mrs. Taiba Khan, Adv.
Mr. Bhanu Malhotra, Adv.
Mr. Akash Bhushan, Adv.
Mr. Rohit Amit Sthalekar, AOR

Mr. Vishwa Pal Singh, AOR
Mr. Aviral Saxena, Adv.
Mr. Adesh Kr. Gill, Adv.
Mr. Surjeet Singh, Adv.
Mr. Ashutosh Bhardwaj, Adv.
Mr. Akash, Adv.

Mr. Siddharth Sangal, AOR
Ms. Nilanjani Tandon, Adv.
Mr. Chirag Sharma, Adv.
Mr. Lalit Allawadhi, Adv.
Ms. Richa Mishra, Adv.

Ms. Namita Choudhary, AOR
Ms. Srishti Choudhary, Adv.

**UPON hearing the counsel the Court made the following
O R D E R**

Leave granted.

The appeals are allowed and the appellants are granted bail in terms of the signed order.

Pending application(s), if any, shall stand disposed of.

**(POOJA SHARMA)
COURT MASTER (SH)**

**(RENU BALA GAMBHIR)
COURT MASTER (NSH)**

(Signed order is placed on the file.)