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ITEM NO.8

Court No.9

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (Crl) No(s).2945/2012

(From the judgement and order dated 19/01/2012 in CRMBA No.16866/2011, of
The HIGH COURT OF JUDICATURE AT ALLAHABAD)

ANIL KUMR AWASTHI @ ANNU

Petitioner(s)

VERSUS

STATE OF U.P.

Respondent(s)

(With appln(s) for bail,permission to file additional documents and office
report))

Date: 07/08/2012 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE T.S. THAKUR
HON'BLE MRS. JUSTICE GYAN SUDHA MISRA

For Petitioner(s) Mr. V.Shekhar, Sr. Adv.
Mr. Venkita Subramoniam T.R.,Adv.
Mr. Rahat Bansal, Adv.

For Respondent(s) Mr. Aftab Ali Khan,Adv.
Mr.S.A.Zaidi, Adv.
Ms. Anjana Sabat, Adv.

Mr.Ameet Singh, Adv.
Mr. Anuvrat Sharma, Adv.

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

The High Court of Allahabad has by the order impugned in
the special leave petition dismissed a second application for grant of
bail filed by the petitioner who is facing trial for offences
punishable under Sections 307, 326, 504 and 506, I.P.C.

We have heard Mr. V.Shekhar, learned senior counsel for the
petitioner and learned counsel appearing for

the State of U.P. and the complainant in the case who have taken us
through the orders passed by the High Court and those passed by the
trial court from time to time. From a reading of the said orders it
does appear that the trial is being delayed partly if not wholly
because of the non-cooperative attitude adopted by the accused who
have been enlarged on bail. Even so we do not propose to deal with the
merits of the contentions urged before us by learned counsel for the

parties lest any observation made by us causes any prejudice to the prosecution or the defence at the trial. All that we need say is that out of three eye-witnesses, two eye-witnesses cited in the charge sheet remain to be examined. Keeping in view the nature of the allegations and the offence allegedly committed by the petitioner, we see no reason to enlarge the petitioner on bail without first ensuring that the statements of the eye-witnesses are recorded. The trial court would, therefore, endeavour to have the witnesses examined as early as possible. In case the examination of witnesses is delayed by reason of any one of the accused persons who are on bail absenting from the proceedings or refusing to cross-examine the witnesses, the trial court shall be free to cancel the bail bonds of the concerned accused and commit to prison.

As regards the prosecution producing the eye-witnesses counsel appearing for the State and the complainant assure us that the two witnesses who remain to be examined shall be produced on the dates fixed by the trial court for that purpose. That assurance is recorded and the special leave petition disposed of with a request to the trial court to expedite the trial especially the examination of the eye witnesses as far as possible within six months.

Needless to say, that after the eyewitnesses are examined the petitioner shall be free to move a fresh application for grant of bail which application shall then be examined on merits by the trial court uninfluenced by any

observation made by us in this order or by the High Court in any previous order.

|(Shashi Sareen)
|Court Master

|(Veena Khara)
|Court Master

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