

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. 2265/2001

(From the judgement and order dated 25/05/2001 in CRLBA 7080/01
of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

STATE OF U.P.

Petitioner (s)

VERSUS

ATIQUE AHMAD

Respondent (s)

(With Appln(s). for stay)
(For Final Disposal)

Date : 11/10/2001 This Petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE D.P. MOHAPATRA
HON'BLE MR. JUSTICE SHIVARAJ V. PATIL

For Petitioner (s) Mr. Jaspal Singh, Sr. Adv.
Mr. Prakash Kumar Singh, adv.
Mr. A.S. Pundir, Adv.

For Respondent (s) Mr. R.K.Jain, Sr. Adv.
Mr. Manoj Goel, adv.
Mr. S.M.A.Kazami, adv.
Mr. Daya Shankar Misra, adv.
Mr. Khan Shaulat Hamit, adv.
Mr. Shuvodeep Roy, adv.
Mr. Avinash Kumar, adv.~
Ms. Abha R. Sharma, Adv.

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

.....L.....I.....T.....T.....T.....T.....T.J
.SP2

Leave granted.
Appeal disposed of.

.SP1

(Suman Wadhwa) (S.Malkani)
Court Master Court Master

Signed order is placed on the file.

State of Uttar Pradesh

& Appellant

Vs.

Atique Ahmad

& Respondent

O R D E R

Leave granted.

We have heard Mr.Jaspal Singh, learned senior counsel for the appellant and Mr.R.K.Jain, learned senior counsel appearing for the respondent.

The State of Uttar Pradesh has filed this appeal assailing the order passed by the Allahabad High Court on 25th May, 2001 in Criminal Bail Application No.7080 of 2001 in which the learned single Judge granted the bail to the accused respondent herein on medical grounds with certain conditions. The relevant portion of the order is extracted below :

Since the trial is still to be held it will not be proper for this court at this stage to express any final opinion on the merits of various contentions raised by learned counsel for the rival parties but giving them due consideration and having regard to the facts and circumstances of the case, for the present, the court is not in favour of granting full term bail to the applicant and in the circumstances of the case, the applicant is allowed a short term bail for a period of four months on medical grounds and also with a view for keeping a watch over his future conduct and activities during this period.

The learned senior counsel appearing for the appellant contended that the learned single Judge having held that it was not a fit case for grant of full term bail to the respondent erred in releasing him on bail for the period of four months on medical grounds ignoring the fact that the State Government had made arrangements for treatment of the respondent in the Medical College Hospital at Allahabad and in the S.G.P.G.I. Hospital at Lucknow while in custody. The learned counsel further contended that in view of the criminal record of the respondent who is involved in a number of cases involving heinous offences the application for bail should have been rejected. It was also the contention of the learned senior counsel that the observation in the order passed by the High Court that short term bail was granted to the respondent with a view for keeping a watch over his future conduct and activities during the period is wholly unsustainable in law.

Per contra Shri R.K.Jain, appearing on behalf of the respondent contended that on the materials available on record in the case, a case for release of the respondent on bail is clearly made out. Further, the respondent suffers from kidney ailments which requires constant medical attention and in such circumstances no exception can be taken to the order of the High Court granting short term bail

to the respondent on medical grounds. Learned senior counsel also contended that in pursuance of the bail order passed by the High Court the respondent was released on 21.7.2001 and the period of four months for which the order has been passed is to expire on 21st November, 2001. Since a short period is left for the bail order to expire, the learned counsel submitted, that this Court may not interfere with the order passed by the High Court.

We have considered the contentions raised by learned counsel for the parties. The observations in the order of the High Court that the applicant is allowed short term bail also with a view for keeping a watch over his future conduct and activities during this period does not commend us. If a case for release of the applicant on bail is not otherwise made out, he cannot be released on bail for a limited period, only for keeping watch over his future conduct and activities during the period. That part of the order of the High Court is clearly unsustainable. However, the High Court, as noted earlier, granted bail to the respondent on medical grounds. It is not disputed before us that the respondent is suffering from certain kidney ailments for which he requires frequent medical attention. There is no allegation that during the period he has been on bail the respondent has been involved in commission of any crime or has misused the liberty granted to him in any manner. Moreover, a short period of about five weeks remains for the bail order to expire.

Considering the facts and circumstances of the case noted above, we are not inclined to interfere with the order passed by the High Court. After expiry of the period specified in the said order if any application for bail is filed by the respondent the same will be considered on merits without being influenced by the fact that this Court declined to interfere with the order granting bail to the respondent. We also make it clear that the order passed by the High Court in the case will not be cited as a precedent in any other case.

With the above observations, this appeal is disposed of.

& & & & & & & & & J.
(D.P.Mohapatra)

& & & & & & & & J.
(Shivaraj V. Patil)

New Delhi
October 11, 2001

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