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SLP(Crl.)No. 3605 OF 2004
ITEM No.3 Court No. 8

SECTION IIA
A/N MATTER

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. 3605/2004

(From the impugned judgement and final order dated 05/08/2004 in CRLA 493/04 of The HIGH COURT OF BOMBAY AT AURANGABAD)

JAGDISH & ORS.

Petitioner (s)

VERSUS

STATE OF MAHARASHTRA & ANR.

Respondent (s)

(With Appln(s). for exemption from filing c/c of the impugned Judgment and stay and permission to place addl. documents on record)

Crl.M.P.11049,11049,11116 and 11117/2004 (Appln.(s) for exemption from surrendering, C/delay in filing counter affidavit and exemption from filing O.T.)

With

SLP(Crl.)No.3677/2004 (With appln.(s) for exemption from filing C/C of the impugned judgment and stay and office report)

Crl.M.P. 11132 & 11133/2004 (appln.(s) for c/delay in filing counter affidavit and exemption from filing O.T.)

SLP(Crl.)...../2004 (CRLMP 10111-10112) (C/delay in filing SLP)

Date : 29/10/2004 These Petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE B.P. SINGH
HON'BLE MR. JUSTICE D.M. DHARMADHIKARI

For Petitioner (s)Mr. U.U. Lalit, Sr.adv.
Mr. Aniruddha P. Mayee, Adv.
Mr. Sanjeev Chaudhary, Adv.

Mr. Vijay Sapkal, Adv.
Ms. C.T.Padol, Adv.
Dr.Kailash Chand, Adv.

For Respondent (s)Mr. S.S.Shinde, Adv.
Mr. Vijay Sapkal, Adv.
Ms. C.T.Padol, Adv.Mr. Ravindra Keshavrao Adsure, Adv.

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

SLP(CRL.) 3605/2004 AND SLP(CRL.)3677/2004

Application for exemption from surrendering filed on behalf of Petitioner No.1 Jagdish is allowed.

Leave granted.

The appeals are allowed and the impugned order of the High Court cancelling the bail granted t

o the appellants is set aside in terms of the signed order placed on the file.

SLP(CRL.)...../2004 (CRL.M.P.10111-10112)

Delay condoned.

The Special Leave Petitions are rejected.

Needless to say that any observation made by this Court, by the High Court, or by the Trial Court, while disposing of the bail application shall not prejudice the case of the parties in the trial.

(SUKHBIR PAUL KAUR)

COURT MASTER

(ASHA JOSHI)

COURT MASTER

(Signed Order is placed on the file)

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1230 2004

(Arising out of SLP(Crl.) No. 3605/2004)

JAGDISH & ORS.....APPELLANT(S)

VERSUS

STATE OF MAHARASHTRA & ANR.....RESPONDENT(S)

WITH CRIMINAL APEAL NO.1231 OF 2004

(Arising out of SLP(CRL.) 3677/2004 and

SLP(CRL.)...../2004 (PR 10111-10112)

O R D E R

SLP(CRL) 3605/2004 AND SLP(CRL.) 3677/2004

Application for exemption from surrendering filed on behalf of Petitioner No.1 Jagdish is allowed since it is stated that he was a victim of an accident, and is presently admitted in hospital undergoing treatment.

Leave granted.

...2/-

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We have heard counsel for the parties and perused the impugned judgement and order of the High Court dated 5th August, 2004 whereby the High Court was pleased to cancel the bail granted to the appellants.

We find that the appellants before us as well as some others were allegedly involved in an occurrence which took place on 15.11.2003 in which one Madhavrao Mahajan was killed and five others received injuries. As many as seven other accused who were also granted bail by the Addl. Sessions Judge were respondents in an application filed before the High Court for cancellation of bail granted to them, but a learned Judge of the High Court by his Order dated 25th March, 2004 refused to cancel the bail.

The application for the cancellation of bail of the appellants herein later came up for hearing before another Judge of the High Court and the same was allowed by the impugned judgement and

d order.

...3/-

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It is not necessary to notice in detail the facts and circumstances of the case, lest it may prejudice the case of the parties, but we may record the fact that we have heard counsel for the parties even on the factual aspects of the matter and we notice that two of the assailants who were alleged to have attacked the deceased with lethal weapons have been refused bail, and they are in custody.

So far as the other accused are concerned, including the appellants herein, they have been assigned minor roles of assaulting other members of the prosecution party. Having regard to the facts and circumstances of the case we are satisfied that the High Court was not justified in setting aside the order of the Additional Sessions Judge granting bail to the appellants herein.

We, therefore, allow the appeals and set aside the impugned order of the High Court cancelling the bail granted to the appellants.

...4/-

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SLP(CRL.)...../2004 (CRL.M.P.10111-10112)

Delay condoned.

The Special Leave Petitions are rejected.

Needless to say that any observation made by this Court, by the High Court, or by the Trial Court, while disposing of the bail application shall not prejudice the case of the parties in the trial.

.....J.

(B.P.SINGH)

.....J.

(D.M.DHARMADHIKARI)

New Delhi;

October 29, 2004