

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).6400/2010

(From the judgement and order dated 21/05/2010 in CRMBA No. 12956/2010 of The HIGH COURT OF JUDICATURE AT ALLAHABAD)

MOHD.JAMAL QURESHI

Petitioner(s)

VERSUS

STATE OF U.P.& ORS.

Respondent(s)

(With appln(s) for exemption from filing O.T.,stay and office report)(For final disposal)

WITH SLP(Crl) NO. 6401 of 2010

(With appln. for exemption from filing O.T. and stay and office report)(For final disposal)

SLP(Crl) NO. 8097 of 2010

(With appln. for exemption from filing O.T. and stay and exemption from filing c/c of the impugned order and office report)

(For final disposal)

Date: 08/08/2011 These petitions were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE P. SATHASIVAM

HON'BLE DR. JUSTICE B.S. CHAUHAN

For Petitioner(s) Mr. Saurabh Mishra,Adv.  
Mr. Javed Khan,Adv.

For Respondent(s) Mr. Pramod Swarup,Adv.  
Mr. Ameet Singh,Adv.  
Mr. Prashant Chaudhary,Adv.

Mr. Ratnakar Dash,Sr.Adv.  
Mr.Anuvrat Sharma,Adv.  
Ms. Alka Sinha,Adv.

Mr. Aftab Ali Khan,Adv.(NP)

...2/-

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UPON hearing counsel the Court made the following

O R D E R

Heard both sides.

Leave granted.

The appeals are allowed in terms of the signed order.

[Madhu Bala]

[Savita Sainani]

Sr.PA

Court Master

(Signed order is placed on the file)

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.1539 OF 2011

(@ SPECIAL LEAVE PETITION(CRL.)NO. 6400 OF 2010)

MOHD. JAMAL QURESHI

...APPELLANT

VERSUS

WITH  
CRIMINAL APPEAL NO.1540 OF 2011 @ SLP(CRL.)NO.6401 OF 2010  
CRIMINAL APPEAL NO.1541 OF 2011 @ SLP(CRL.)NO. 8097 OF 2010

O R D E R

Heard both sides.  
Leave granted.

The complainant challenges the order of bail granted in favour of the respondents/accused. It is not in dispute the offences under which these accused were charged under section 302,201,364, 34 I.P.C. The perusal of the impugned order in all the three appeals show that the case rests on circumstantial evidence and there is no recovery of incriminating articles from the possession of the accused.

Learned counsel for the appellant by drawing our attention to recovery memo submitted that knives with blood stained and dust found on both sides of the blades recovered at the instance of the accused. He also submitted that various circumstances relying on by the prosecution would strengthen its case and according to the counsel, the High Court committed an error in granting bail.

On the other hand, Mr. Pramod Swarup, learned senior counsel for the contesting respondents/accused submitted that the High Court is justified in granting bail.

...2/-

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We have perused the impugned order of the High Court and the contentions raised by both sides. On going through the materials available on record, we are of the view that the reasoning of the High Court particularly the reasonings without considering all the materials cannot be sustained. On this ground, we set aside the impugned order of the High Court. We request the High Court to restore the Criminal Misc. Bail Applications on its file and dispose of the same within a period of two months after affording opportunity to both parties.

It is made clear that we have not expressed anything on the merits of the claim of both parties.

In view of our conclusion and order setting aside the grant of bail by the High Court, respondents viz. Naushad, Yaseen, Shakir, Shamshad, Bhura, Kalua all sons of Haji Babu and Aqeel S/o Budha are directed to be surrendered within two weeks from today.

The appeals are allowed on the above terms.

.....J.  
[P. SATHASIVAM]

NEW DELHI  
8TH AUGUST, 2011

.....J.  
[DR. B.S. CHAUHAN]