

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No. OF 2024
(Arising out of SLP(Criminal) No. 5205/2024)

VIKAS NAGAR

Appellant(s)

VERSUS

VARUN BHATI & ANR.

Respondent(s)

O R D E R

1. Leave granted.
2. This appeal is directed against the impugned judgment and order dated 04.12.2023, passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 37417 of 2023, whereby the High Court has accepted the said application and released the applicant/accused - Varun Bhati (respondent no.1 herein) on bail.
3. Heard learned senior counsel/ learned counsel for the parties and perused the material on record.
4. It is vehemently submitted by the counsel appearing for the appellant-complainant that the impugned order, dated 04.12.2023, passed by High Court, is *ex-facie*, erroneous when the High Court had recorded that two material witnesses examined by the

prosecution have turned hostile and there was no criminal history of the respondent no.1. She has also pointed out from the depositions of the said two witnesses, that they had not turned hostile. She has also relied upon the additional affidavit filed on behalf of the respondent no.2-State that the respondent no.1 had criminal antecedents in as much as the Case Crime Nos. 426/2019 and 205/2019, were registered at Police Station-Ecotech-III, Gautam Buddha under Sections 2 and 3 of the U.P. Gangster Act, against him along with the other co-accused. However, Mr. R. Bala, learned senior counsel appearing for respondent no.1 submits that the said respondent was already in custody for about four and a half years, and that, considering the said fact, the High Court had released the respondent no.1 on bail, more particularly, when the trial had already commenced.

5. Having regard to the submissions made by the learned senior counsel/ learned counsel for the parties, and also to the record of the case, it is clearly discernible that the High Court had released the respondent no.1 on bail recording an incorrect finding that there was no criminal history of the

respondent no.1 when he was clearly named in the Case Crime Nos.426/2019 and 205/2019, registered at Police Station-Ecotech-III, Gautam Buddha Nagar under the U.P. Gangster Act. The High Court had also recorded the wrong finding that the two witnesses examined by the prosecution, have turned hostile, when they had actually not declared hostile.

6. Hence, the impugned order dated 04.12.2023, passed by the High Court on erroneous findings recorded by it, deserves to be set aside and, is accordingly, set aside. It is clarified that we have not expressed any opinion on the merits of the case.

7. The accused/respondent no.1 (Varun Bhati) is directed to surrender before the concerned Trial Court within four weeks from today.

8. It is further directed that the Trial Court shall conclude the trial as expeditiously as possible, preferably, within one year from the date of receipt of a copy of this order without being influenced by any of the observations made by this Court or by the High Court.

9. If the trial is not concluded within the directed time, the respondent no-1 shall be at liberty to file fresh application seeking bail, and

if such application is filed, the Trial Court shall decide the same on its own merits and in accordance with law.

10. The appeal is allowed accordingly.

11. Pending application(s), if any, shall stand closed.

.....J.
(BELA M. TRIVEDI)

.....J.
(SATISH CHANDRA SHARMA)

New Delhi
25th October, 2024

ITEM NO.53

COURT NO.13

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). 5205/2024

(Arising out of impugned final judgment and order dated 04-12-2023 in CRMBA No. 37417/2023 passed by the High Court Of Judicature At Allahabad)

VIKAS NAGAR

Petitioner(s)

VERSUS

VARUN BHATI & ANR.

Respondent(s)

Date : 25-10-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) Mrs. Amita Gupta, AOR

For Respondent(s) Mr. R. Bala, Sr. Adv.

Mr. Sudhir Naagar, AOR
Mr. R.s. Nagar, Adv.

Mr. Apoorva Aggarwal, A.A.G.
Mr. Rajat Singh, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

Pending application(s), if any, shall stand closed.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(MAMTA RAWAT)
COURT MASTER (NSH)

(signed order is placed on the file)