

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL No.1383-1384 OF 2022
(@SLP (CRL.) NO. 2219-2220 OF 2022)

NARENDRA SINGH

APPELLANT

VERSUS

STATE OF UTTAR PRADESH AND ANR. ETC.

RESPONDENTS

WITH

CRIMINAL APPEAL No.1385 OF 2022
SLP (CrI.) No(s). 8023 OF 2022

O R D E R

SLP (CRL.) NO. 2219-2220 OF 2022 AND SLP (CRL.) 8023 OF 2022

Leave granted.

As per the prosecution, the deceased, namely Pankaj Kumar Singh, had gone missing on 09.10.2019. Subsequently, his dead body was found buried in a six feet deep pit in the basement of House No. 51, Girdhar Enclave, Sahibabad. As per the post-mortem report, the deceased had been strangled to death and thereafter buried in a pit.

It is also the case of the prosecution that the house, where the deceased Pankaj Kumar Singh was buried, belongs to Munna Kumar @ Hari Om and his wife Sulekha, where they were/are residing. The case made out against them is that Pankaj Kumar Singh used to like their daughter Ankita and, on this account, there was objection by the parents of Ankita, namely, Munna Kumar @ Hari Om and Sulekha.

As per the prosecution, Munna Kumar @ Hari Om and Sulekha were missing and had absconded.

Munna Kumar @ Hari Om and Sulekha were arrested on 04.11.2019 and were granted bail on 28.04.2022 and 08.11.2021, respectively. There are several public witnesses who have not yet been examined and many of them belong to the same area/locality in question where Munna Kumar @ Hari Om and Sulekha were/are residing.

The High Court, while granting bail, has failed to take into consideration the nature of accusation, gravity of circumstances in which the offence was allegedly committed, severity of punishment on the offence being proved, reasonable apprehension of the witnesses being influenced and trial being jeopardised. These, amongst others, are the relevant factors that the court must bear in mind while accepting or rejecting a prayer for bail. While it is not expected that at this stage, the court would conduct a preliminary trial, *albeit* Section 437 of the Code of Criminal Procedure, 1973 uses the words "reasonable grounds for believing", and not "evidence", indicative that the court should examine whether there is a genuine case against the accused and whether the prosecution has *prima facie* evidence in support of the charge.¹

In view of the aforesaid, we set aside the orders dated 28.04.2022 and 08.11.2021, and the bail granted to Munna Kumar @ Hari Om and Sulekha is cancelled. Both of them would surrender within a period of ten days from today, failing which the authorities would take steps to arrest and take them into custody.

¹ See *Prahlad Singh Bhati v. NCT Delhi*, (2001) 4 SCC 280 and *Gurcharan Singh V. State (Delhi Admin.)*, (1978) 1 SCC 118.

We have been informed that the trial has not commenced, though the charge sheet was filed way back in December 2019. The trial court would proceed with the trial expeditiously. We also clarify that the observations made in this order are only for deciding the present appeal and would not be treated as findings on merits. The trial court would independently examine the evidence brought on record.

We also clarify that it will be open to Munna Kumar @ Hari Om and Sulekha to file a fresh application for bail, in case of change in circumstances or if the trial takes too long.

In view of the aforesaid position, the appeals are allowed.

Pending application(s), if any, stands disposed of.

.....J.
(SANJIV KHANNA)

.....J.
(J.K. MAHESHWARI)

NEW DELHI;
AUGUST 30, 2022.

ITEM NO.7+26

COURT NO.12

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 (Cr1.) No(s). 2219-2220/2022

(Arising out of impugned final judgment and order dated 08-11-2021 in CRMB No. 19347/2021 17-11-2021 in CRMB No. 4052/2021 passed by the High Court of Judicature at Allahabad)

NARENDRA SINGH

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH AND ANR. ETC.

Respondent(s)

(FOR ADMISSION and I.R.

IA No. 106790/2022 - EXEMPTION FROM FILING O.T.

IA No. 106787/2022 - EXEMPTION FROM FILING O.T.)

WITH

Diary No(s). 10121/2022 (II)

(FOR ADMISSION and I.R. and IA No.51933/2022-EXEMPTION FROM FILING O.T. and IA No.51932/2022-PERMISSION TO FILE PECIAL LEAVE PETITION)

WITH

SLP (Cr1.) No(s). 8023/2022

(IA No.117655/2022-CONDONATION OF DELAY IN FILING and IA No.117653/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.117654/2022-EXEMPTION FROM FILING O.T. and IA No.117652/2022-PERMISSION TO FILE SPECIAL LEAVE PETITION)

Date : 30-08-2022 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA

HON'BLE MR. JUSTICE J.K. MAHESHWARI

For Petitioner(s)

Mr. Anil Kumar Mishra, Adv.

Mr. Supantha Sinha, Adv.

Mr. Manish Shekhari, Adv.

Mr. Shamim Haider, Adv.

Mr. Mahabir Singh, Adv.

Mr. Aditya Jain-1, AOR

For Respondent(s)

Mr. Vinod Diwakar, AAG

Mr. Garvesh Kabra, AOR
Mr. B.N. Dubey, Adv.
Mr. Vinay Garg, AOR

UPON hearing the counsel, the Court made the following

O R D E R

SLP (CRL.) NO. 2219-2220 OF 2022 AND SLP (CRL.) 8023 OF 2022

Leave granted.

The appeals are allowed in terms of the signed order.

Pending application(s), if any, stand disposed of.

SLP (CRL.) D. NO. 10121 OF 2022

I.A. No. 51932 of 2022, which is an application for permission to file the special leave petition, is allowed.

Having heard the learned counsels for the parties, in view of the motive alleged by the prosecution, we are inclined to dismiss the Special Leave Petition.

Accordingly, Special Leave Petition (Crl.) D. No. 10121 of 2022, seeking stay of the High Court order dated 17.11.2022 granting bail to Ankita, is dismissed.

Pending application(s), if any, stands disposed of.

(BABITA PANDEY)
COURT MASTER (SH)

(Signed order is placed on the file)

(DIPTI KHURANA)
ASSISTANT REGISTRAR