

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3079 OF 2023  
(Arising out of S.L.P.(CrI.) No. 3443 of 2023)

TUKARAM GANGADHAR CHITALKAR . . . APPELLANT(S)

VS.

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

O R D E R

Leave granted.

Heard the learned counsel appearing for the parties.

The appellant was enlarged on bail by the Trial Court by the order dated 16<sup>th</sup> February, 2018. The offences alleged against the appellant are punishable under Sections 302, 307 and 427 of the Indian Penal Code. The second respondent who is the original complainant challenged the order granting bail. The application was filed by the second respondent in 2018 which has been eventually allowed by the impugned order dated 15<sup>th</sup> February, 2023.

A perusal of the impugned order shows that the High Court has gone into the merits of the allegations made by the prosecution against the appellant. There is a discussion about the statements of the prosecution witnesses. What is surprising is that the High Court by the impugned order, while setting aside the order granting bail, has remanded the bail application for fresh consideration before the Sessions Court. This was done five years after the order granting bail was passed. In our view, such approach was completely uncalled for.

The High Court has missed one more important aspect. It was not the case made out before the High Court that from 16<sup>th</sup> February, 2018 till the date of passing the impugned order i.e. 15<sup>th</sup> February, 2023, the appellant had misused the liberty granted to him. This important aspect has been completely glossed over by the High Court. As observed earlier, the order of remand was completely unwarranted.

This Court by the order dated 17<sup>th</sup> March, 2023 while issuing notice, suspended the operation of the impugned order of cancellation of bail. A perusal of the counter affidavit filed by the second respondent shows that it is not the case made out that after 17<sup>th</sup> March, 2023, the appellant has misused the liberty granted to him.

Therefore, the appeal succeeds and is accordingly allowed. The impugned order dated 15<sup>th</sup> February, 2023 is set aside and the order dated 16<sup>th</sup> February, 2018 granting bail to the appellant is restored.

We direct the appellant to cooperate with the Trial Court for early disposal of the case.

.....J.  
(ABHAY S.OKA)

.....J.  
(PANKAJ MITHAL)

NEW DELHI;  
October 04, 2023.

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). 3443/2023

(Arising out of impugned final judgment and order dated 15-02-2023 in CRLAP No. 153/2018 passed by the High Court of Judicature at Bombay)

TUKARAM GANGADHAR CHITALKAR

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

(FOR ADMISSION and I.R. and IA No.53820/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.53821/2023-EXEMPTION FROM FILING O.T.)

Date : 04-10-2023 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s)

Mr. Anand Dilip Landge, AOR  
Mr. Sanjay Prabhakar Shinde, Adv.

For Respondent(s)

Mr. Siddharth Dharmadhikari, Adv.  
Mr. Aaditya Aniruddha Pande, AOR  
Mr. Bharat Bagla, Adv.  
Mr. Sourav Singh, Adv.  
Mr. Aditya Krishna, Adv.  
Ms. Yamini Singh, Adv.  
Mr. Anoop Raj, Adv.

Mr. Sudhir Mendiratta, 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 applications also stand disposed of.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

(Signed order is placed on the file.)