

IN THE SUPREME COURT OF INDIA
CRIMINAL ORIGINAL JURISDICTION

WRIT PETITION (CRIMINAL) NO. 70/2015

SANJEEV BHATNAGAR .. PETITIONER(S)

VERSUS

UNION OF INDIA & ANR. .. RESPONDENT(S)

O R D E R

1. By this petition, the petitioner had sought for the recommendation of the provisions of anticipatory bail vide Section 438 Cr.P.C. in the States of Uttar Pradesh and Uttarakhand. The State of Uttar Pradesh had rendered Section 438 Cr.P.C. inapplicable by virtue of an Uttar Pradesh Amendment Act, 1976 (Act No. 16/1976). The State legislature of Uttarakhand, which was formed as a result of Re-Organisation continued this position and the provision of anticipatory bail was not available with that State.

2. While this petition was pending, the State of Uttar Pradesh has passed an amendment, namely, Criminal Procedure Code (Uttar Pradesh Amendment) Bill, 2018 for reintroducing Section 438 Cr.P.C., which is awaiting the assent of the President of India. As far as the State of Uttarakhand is concerned, we are informed by learned Deputy Advocate General that the State shall contemplate an amendment similar to the amendment passed by the State legislature of Uttar Pradesh. However, the High Court of Uttarakhand at Nainital in Special Appeal Nos. 739 and 740 of 2018 has by a judgment dated 19.09.2018 declared that since Section 9 of the Code of Criminal Procedure (Uttar Pradesh Amendment) Act, 1976 has not been adapted, the same will not be applicable to the State of Uttarakhand. In other words, Section 438 Cr.P.C. shall be applicable in the State of Uttarakhand. The result is that

a person may apply for anticipatory bail in the State of Uttarakhand. We, therefore, consider it unnecessary to keep this petition pending. We accordingly, dispose of this petition.

3. Learned Deputy Advocate General for the State of Uttarakhand states that the State intends to question the correctness of the judgment dated 19.09.2018 of the High Court of Uttarakhand, which is placed on record, before this Court though it agrees in principle that the provisions of Section 438 Cr.P.C. should be available to citizens in the State of Uttarakhand. That question is left open.

.....J.
[S.A. BOBDE]

.....J.
[L. NAGESWARA RAO]

NEW DELHI,
OCTOBER 22, 2018.

ITEM NO.1

COURT NO.5

SECTION X

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

Writ Petition(Criminal) No. 70/2015

SANJEEV BHATNAGAR

Petitioner(s)

VERSUS

UNION OF INDIA & ANR.

Respondent(s)

Date : 22-10-2018 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE S.A. BOBDE
HON'BLE MR. JUSTICE L. NAGESWARA RAO

For Petitioner(s) Mr. Sanjeev Bhatnagar, in-person

For Respondent(s) Mr. Jatinder Kumar Sethi, Dy. A.G.
Mrs. D. Bharathi Reddy, AOR
Ms. Rachana Gandhi, Adv.

Ms. Kiran Suri, Sr. Adv.
Mr. Shiv Mangal Sharma, Adv.
Mr. Ravindra Kumar Verma, Adv.
Mr. R.K. Verma, Adv.
Mr. B.V. Balaram Das, AOR

Mr. Abhishek, AOR

Ms. Aishwarya Bhati, AAG
Mr. Pradeep Misra, AOR
Mr. Suraj Singh, Adv.
Mr. Jitendra Kumar Tripathi, Adv.

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

The writ petition is disposed of in terms
of the signed order.

[Charanjeet Kaur]
A.R. - cum - P.S.

[Indu Kumari Pokhriyal]
Asstt. Registrar

[Signed order is placed on the file]