
(1994) 08 AHC CK 0005
In the Allahabad High Court
Case No : Criminal Revision No. 1260 of 1994

Misbah

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 23-08-1994

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 167(2)

Citation : (1994) 18 ACR 669

Hon'ble Judges : C.A. Rahim, J

Bench : Single Bench

Judgement

C.A. Rahim, J.—The only point which has been raised in this revision is that the accused-revisionist has been detained in custody for more than 90 days before filing of the charge-sheet and the same was not considered by the learned Additional Chief Judicial Magistrate, Azamgarh. In the decision reported in Amrithappa and Another Vs. State of Karnataka, it was held that the date on which the accused suffers deprivation of his liberty would also count for one day. The fraction of a day which the accused is under detention is also a day for the purpose of proviso (a) to Section 167(2), Code of Criminal Procedure. Learned advocate for the revisionist has submitted that he was taken to custody on 8.4.1994 and charge-sheet was submitted on 6.8.1994 and in between accused was on short term ball from 25.6.1994 to 24.7.1994. So according to him he was in the custody for 91 days on the date when the charge-sheet was filed and accordingly, he is entitled to bail.

2. Learned Additional Chief Judicial Magistrate did not consider this aspect of the matter. The calculation shows that during that period he was in custody for 91 days. Accordingly learned advocate for the revisionist is justified in saying that the accused revisionist is justified in saying that the accused revisionist should be granted bail according to the provisions of Section 167(2)(a) Code of Criminal Procedure.

3. I accept the plea and calculation. It appears that the accused was in custody

for 91 days prior to the filing of charge-sheet as Section 167(2)(a), Code of Criminal Procedure, comes into play. The statute has authorised an accused in prison to be enlarged on bail on the fulfilment of certain period of detention. Any Court of law is not justified in injuring the rights of the accused.

4. Accordingly the revision is allowed. Let the accused-revisionist be released on bail to the satisfaction of the learned Additional Chief Judicial Magistrate I, Azamgarh on his executing bond of Rs. 2,000 with two sureties of like amount one of whom shall be local surety.