
(2016) 08 SC CK 0256

In the Supreme Court Of India

Case No : Criminal Appeal No. 748 of 2016 (Arising Out of Slp (Crl.) No. 7154 of 2015)

Naresh Kumar

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 08-08-2016

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 439

Citation : (2016) ALLMRCri 4493

Hon'ble Judges : Mr. S.A. Bobde and Mr. Ashok Bhushan, JJ.

Bench : Division Bench

Advocate : Mrs. Mona K. Rajvanshi and Mr. Anurag Kashyap, Advocates, for the Appellant; Mr. Adarsh Upadhyay, Mr. Garvesh Kabra, Mr. Anurag Dubey, Mr. Meenesh Dubey, Ms. Meenakshi Parihar for Mr. S.R. Setia, Advocates, for the Respondents

Final Decision : Allowed

Judgement

1. Leave granted.

2. The appellant-complainant has preferred this appeal by special leave against the impugned order dated 29.5.2015 passed by the High Court in Criminal Miscellaneous Bail Application No. 2464 of 2015, granting bail to the accused - respondent No. 2 herein.

3. Respondent No. 2 is an accused along with other four co-accused in Case Crime No. 2/2014 for offences punishable under sections 147, 148, 149, 302, 420, and 467 of the Indian Penal Code. It is alleged that after the accident on the road, the brother of the appellant was taken in the nearby field and killed.

4. None of the other four co-accused have been granted bail by the courts below. However, respondent No. 2 appears to have been granted bail.

5. We find from the impugned order of the High Court that virtually, no reasons have been given except to say that the applicant has made out a case for bail,

keeping in view the nature of the offence, evidence placed on record, complicity of the accused in the crime, etc. We are of the opinion that the considerations for grant of bail, according to the law, have not been carefully taken into account while granting bail to respondent No. 2 by the High Court. Moreover, we find that after the offence was registered, a witness has been threatened by the accused and he has lodged the First Information Report against them, which is placed on the record of the case.

6. By order dated 24.8.2015, while issuing notice to the respondent-accused, this Court stayed the operation of the impugned order passed by the High Court.

7. Apparently, the respondent was released before the stay order granted by this Court was communicated to the concerned authorities, and he has been at large since then. He has not participated in the trial either.

8. Having heard learned counsel for the rival parties, and keeping in view the overall circumstances, we are of the opinion that the impugned order granting bail to respondent No. 2 is liable to be set aside.

9. Hence, we allow this appeal and set aside the impugned order passed by the High Court.

10. Since the respondent No. 2 is at large, he is directed to surrender forthwith before the learned Chief Judicial Magistrate, District Auraiya, Uttar Pradesh. application for bail before the High Court. In case such an application is moved by respondent No. 2, the High Court shall consider and dispose of it on merits and in accordance with law expeditiously.

11. We make it clear that we have not expressed any opinion on the merits of the controversy.