

Jitendera Taneja vs The State Of Uttar Pradesh on 19 February, 2021

Bench: Sanjay Kishan Kaul, Hrishikesh Roy

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IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 151 /2021
[@ SLP [CRL.] NO.6080/2020]

JITENDERA TANEJA

Appel

VERSUS

THE STATE OF UTTAR PRADESH & ORS.

Respo

O R D E R

Applications for impleadment as respondent No.3 and permission to appear and argue in person are allowed.

Leave granted.

An FIR was registered against the appellant by the complainant(s) under Section 406 and 420 of the IPC on 11.1.2018 on the ground that he was a Director in the company named JNC Con- structions Pvt. Ltd. in which the complainant(s) had booked flats in August, 2014. The allotment letters/builder buyer agreement was executed in September, 2014 and 95 per cent of the total cost was paid and possession was to be delivered by May, 2015 but till date the possession has not been delivered nor the money had been returned back. In pursuance to the FIR, the appellant was arrested on 07.08.2019. The charge sheet was filed on 29.08.2019 and the endeavour of the appellant to seek bail was rejected on 17.12.2019 and that failure continued right till the High Court.

On 4.09.2019, the trial Court took cognizance of the charge sheet but the same was assailed with the Sessions Court which set 12:46:04 IST Reason:

aside the order dated 4.9.2019 in terms of an order dated 20.1.2020.

It appears that the appellant taking advantage of the aforesaid aspect, immediately applied for bail the very next day on 21.1.2020 and bail was granted.

In pursuance to the order dated 21.01.2020 of the Sessions Court, the trial court again bestowed its consideration and took cognizance on 28.01.2020. The complainant(s) moved the trial Court on 30.01.2020 alleging that while seeking bail, the appellant had not disclosed the factum of the dismissal of the earlier bail applications right till the High Court and on that ground alone bail was cancelled on the same day without notice to the appellant and the appellant was taken into custody again on 09.03.2020. The order of the trial Court has been upheld by the Sessions Court on 24.02.2020 and thereafter the petition filed under Article 227 of the Constitution of India before the High Court also met the same fate on 9.11.2020. It is these orders which are now sought to be assailed before us.

The substratum of the arguments of the learned senior counsel for the appellant is that there was change in circumstances when the Sessions Court set aside the cognizance and the appellant only got the benefit of the same and bail was granted on 21.01.2020 on the next date. However, it cannot be disputed that the factum of the fate of the earlier bail application had not been specifically disclosed by the appellant while seeking to take advantage of the change of circumstances. It is this factor which weighed with the Courts subsequently i.e. the trial Court, Sessions Court and the High Court in cancelling the bail.

The other development which we are informed is that the NCLT is in seisin of the dispute and the resolution plan has also been approved. We may also note that the other Directors are not in custody being the father and the brother of the appellant. We have heard learned counsel for parties and though we certainly cannot approve the conduct of the appellant in not disclosing the fate of the earlier bail applications while seeking bail on account of the changed circumstances of the cognizance having been set aside, in view of these subsequent developments, more so, the fact that the NCLT has approved the resolution plan; and that there cannot be an indefinite period of time for which the appellant can be kept in custody; the investigation having been completed and charge sheet having been filed, it cannot be accepted as a plea that till the trial is complete, the appellant should be kept in custody as the purposes of custody in such a case is of significance to the extent that custodial interrogation may be required to facilitate proper filing of a charge sheet. We are thus of the view that the appellant is liable to be enlarged on bail on the terms and conditions to the satisfaction of the trial Court.

The appeal is accordingly allowed in the aforesaid terms.

.....J. [SANJAY KISHAN KAUL]J. [HRISHIKESH ROY] NEW DELHI;

FEBRUARY 19, 2021.

ITEM NO.20

Court 8 (Video Conferencing)

SECTION II

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.)

No. 6080/2020

(Arising out of impugned final judgment and order dated 09-11-2020 in MUA227 No. 2227/2020 passed by the High Court Of Judicature At Allahabad) JITENDERA TANEJA Petitioner(s) VERSUS THE STATE OF UTTAR PRADESH & ANR. Respondent(s) (FOR ADMISSION and I.R. and IA No.123635/2020-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.123634/2020- EXEMPTION FROM FILING O.T. and IA No.129389/2020-INTERVENTION/IMPLEADMENT and IA No.129391/2020-PERMISSION TO APPEAR AND ARGUE IN PERSON, MR. RAM KISHAN, APPLICANT-IN-PERSON HAS FILED APPLICATIONS FOR IMPLEADMENT AS RESPONDENT NO.3 AND PERMISSION TO APPEAR AND ARGUE IN PERSON, IA No. 123635/2020 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT) Date : 19-02-2021 This matter was called on for hearing today. CORAM :

HON'BLE MR. JUSTICE SANJAY KISHAN KAUL HON'BLE MR. JUSTICE HRISHIKESH ROY For Petitioner(s) Mr. R. Basant, sr. Adv.

Mr. Sanchit Garg, AOR Mr. Pranshu Kaushal, Adv. Col. Sushil Kumar Sharma, Adv. For Respondent(s) Mr. Vinod Diwakar, AAG Mr. Sarvesh Singh Baghel, AOR Mr. Ayush Mishra, Adv.

Mr. B.N. Dubey, Adv.

Ms. Shivranjani Ralawata, Adv. Mr. Shivam Singh, Adv.

Mr. Sahil Chandra, Adv.

Mr. Manish Kumar, AOR Applicant-in-person UPON hearing the counsel the Court made the following O R D E R Applications for impleadment as respondent No.3 and permission to appear and argue in person are allowed.

Leave granted.

The appellant is liable to be enlarged on bail on the terms and conditions to the satisfaction of the trial Court.

The appeal is allowed in terms of the signed order.

Pending applications stand disposed of.

[CHARANJEET KAUR]
ASTT. REGISTRAR-cum-PS

[POONAM VAID]
COURT MASTER (NSH)

[Signed order is placed on the file]