

BOHATTI DEVI

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v.

THE STATE OF UTTAR PRADESH & ANR.

(Criminal Appeal No. 1695 of 2022)

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SEPTEMBER 30, 2022

[M. R. SHAH AND KRISHNA MURARI, JJ.]

Penal Code, 1860 – ss.302, 120B – Bail – Respondent no.2- accused granted bail by High Court – On appeal, held : No cogent reasons have been given by the High Court while releasing the respondent no.2 on bail, germane to the grant of bail and that too in a very serious offence u/ss.302 and 120B – Material and/or relevant aspects have been ignored by the High Court while releasing the respondent no.2 on bail – Further, while considering the parity with co-accused, it did not consider the role attributed to the said co-accused and the allegations against respondent no.2 – Impugned judgment set aside – Code of Criminal Procedure, 1973 – s.482.

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CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1695 of 2022.

From the Judgment and Order dated 25.03.2022 of the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 4095 of 2022.

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Atul Kumar, Abhimanyu Sharma, Ms. Deepali, Tarun Gupta, Advs. for the Appellant.

Vinod Diwakar, AAG, Rakesh Kumar Khanna, Sr. Adv., Sarvesh Singh Baghel, B. N. Dubey, Vishal Kumar Singh, Ashutosh Dubey, Abhishek Chauhan, H. B. Dubey, Ms. Rajshri Dubey, Amit P. Shahi, Ashish Tanwar, R. Khanna, Amit Kumar, Advs. for the Respondents.

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A The Judgment of the Court was delivered by

M. R. SHAH, J.

B 1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 25.03.2022 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 4095 of 2022 by which the High Court has released the respondent No. 2 accused on bail in connection with the F.I.R. for the offence under Sections 302 and 120B IPC, the original complainant (now the State) has preferred the present appeal.

C 2. At the outset, it is required to be noted that the respondent No. 2 is facing the trial for the offence under Sections 302 and 120B IPC. Having gone through the impugned judgment and order passed by the High Court releasing the respondent No. 2 on bail, it can be seen that the High Court has not at all considered the seriousness and gravity of the offence alleged against the respondent No. 2. Even the High Court has not considered the relevant material forming the charge sheet. No cogent reasons have been given by the High Court while releasing the respondent No. 2 on bail, germane to the grant of bail and that too in a very serious offence under Sections 302 and 120B IPC.

E 2.1 The High Court has also not considered the fact that earlier the respondent No. 2 – accused initiated the proceedings before the High Court to quash the criminal proceedings against him by filing an application under Section 482 Cr.P.C., which came to be dismissed by the High Court. The High Court has also not considered that the special leave petition filed against the order passed by the High Court rejecting the application under Section 482 Cr.P.C. also got dismissed by this Court. F The High Court has also not noticed and/or considered that a non-bailable warrant was issued against respondent No. 2 – accused and thereafter, he was arrested in the year 2021. All the aforesaid aspects, which are very material and/or relevant while considering the prayer for bail have been ignored by the High Court while releasing the respondent No. 2 on bail. G

H 2.2 From the impugned judgment and order, it appears that the High Court has considered the enlargement on bail to the co-accused Vicky and Sarvesh @ Mangal. However, the High Court while considering the parity has not at all considered the role attributed to the said co-accused and the allegations against respondent No. 2 herein.

3. In view of the above facts and circumstances, the impugned judgment and order passed by the High Court releasing the respondent No. 2 on bail is unsustainable and the same deserves to be quashed and set aside and is accordingly quashed and set aside. The impugned judgment and order passed by the High Court releasing the respondent No. 2 - accused on bail in connection with Case Crime No. 1069 of 2014 for the offence under Sections 302, 120B IPC, P.S. Baraut, District Baghpat is hereby quashed and set aside.

Now, the respondent No.2 to surrender before the concerned Jail Authority / Court within a period of two weeks from today, failing which, non-bailable warrant be issued against him. However, it is observed that the learned Trial Court to conduct the trial in accordance with law and on merits and on the basis of the evidence led before it and without in any way being influenced by the present order as any observations made in the present order are while considering the bail application.

Present appeal is allowed accordingly.

Divya Pandey
(Assisted by : Roopanshi Virang, LCRA)

Appeal allowed.