

YASHPAL SINGH

A

v.

STATE OF UTTAR PRADESH & ANR.

(Criminal Appeal No. 1509 of 2022)

SEPTEMBER 15, 2022

B

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

Bail – Cancellation of – Allegedly a land dispute was going on between respondent no.2-original accused and original informant-Complainant – It was also alleged that accused persons had attacked informant and other persons – In the said incident brother of informant died on the spot and others were seriously injured – FIR was registered – Respondent no.2 was arrested – Bail of respondent no.2 was rejected by the trial Court – High Court released respondent no. 2 on bail – Complainant approached Supreme Court and challenged the validity of grant of bail – Held: That on the day of incident, a tractor was driven over standing crops on the disputed land in question by the accused persons with intention to take over possession and all the accused persons were armed – Informant and others gathered at the spot and accused persons attacked them and in the said incident brother of informant died on the spot and others were seriously injured – The said aspect was not considered by the High Court – No reasons were given by the High Court while granting bail – Submission of the accused that there was dark night, therefore, it was not possible to identify the accused was accepted by the High Court without giving any reason – However, the accused persons were known to the informant as there was an previous enimty – Also, informant had specifically named accused persons in FIR – Nature and seriousness of allegations and gravity of offences also not considered by the High Court – Order and judgment of bail of the High Court unsustainable and set aside – Penal Code, 1860 – ss. 147, 148, 149, 324, 427, 441, 323, 506, 447, 307, 302 and 34.

C

D

E

F

G

Allowing the appeal, the Court

HELD: 1. This Court have gone through the allegations made in the FIR. The land dispute between respondent No. 2-

H

- A original accused and informant-complainant side is the motive. It is alleged in the FIR that on the earlier night they ran over the tractor on the standing crop and the accused persons tried to take over the possession. That thereafter when the informant and others gathered at the spot the accused persons named in the FIR attacked them and in the said incident brother of the informant died and other persons were seriously injured. The aforesaid aspect has not at all been considered by the High Court while releasing respondent No. 2 on bail. No reason whatsoever has been given by the High Court while releasing respondent No. 2 on bail. When the accused person is facing the trial under Sections 147, 148, 307, 302 and other offences of IPC, which can be said to be very serious offences, the High Court ought to have given cogent reasons while releasing respondent No. 2 on bail except narrating the submissions made on behalf of the accused and the State, no further independent reason has been given by the High Court while releasing respondent No. 2 on bail. [Para 4][838-D-F]
- 2. From the impugned judgment and order passed by the High Court, it appears that it was submitted on behalf of the accused that there was a dark night therefore, it was not possible to identify the accused and/or the person who attacked and it appears that without giving any cogent reason the High Court has prima facie accepted the same. However, it is required to be noted that the accused persons were known to the complainant. There was a prior enmity. They came in a tractor. Therefore, at this stage it could not have been concluded and/or opined that it was not possible to identify the accused. Be that as it may, even otherwise the aforesaid can be said to be a defence on the part of the accused which is required to be considered at the time of trial. In the present case in the FIR the injured - informant – complainant has specifically named the accused persons. Even in his statement recorded under Section 161 of the CrPC the informant has stood by what he has stated in the FIR. Under the circumstances, when the nature of allegations and the seriousness and gravity of the offences has not at all been considered by the High Court and no reasons whatsoever have been assigned by the High Court while releasing respondent No. 2 – accused on bail, the impugned judgment and order passed by the High Court

**directing to release respondent No. 2 on bail is unsustainable A
and was quashed and set aside. [Para 4.1][838-G-H; A-C]**

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal No. 1509 of 2022.

From the Judgment and Orders dated 18.01.2022 of the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 49828 of 2021. B

Ms. Amita Singh Kalkal, Ms. Aditi Gupta, Devvrat Pradhan, Narender Kaushik, Shreeji Bhavsar, Advs. for the Appellant.

Vinod Diwakar, AAG, Sarvesh Singh Baghel, B. N. Dubey, Akshay C
Saxena, Nitin Saluja, Varun Pandit, Advs. for the Respondents.

The Judgment of the Court was delivered by

M. R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned final judgment and order dated 18.01.2022 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 49828 of 2021, by which, the High Court has directed to release respondent No. 2 – original accused on bail in Case Crime No. 95 of 2021 of Police Station Falavda, District Meerut for the offences punishable under Sections 147, 148, 149, 324, 427, 441, 323, 506, 447, 307, 302 and 34 of IPC, original informant – original complainant has preferred the present appeal. D E

2. At the outset, it is required to be noted that respondent No. 2 herein and others were specifically named in the FIR. A land dispute was going on between respondent No. 2 – Mehtab and the complainant side. It was specifically alleged in the FIR which was given by the appellant that the land dispute of a land in possession of informant – Yashpal Singh was pending in the Court against accused Mehtab and Deepak. It was further alleged that on intervening night of 29/30.06.2021 a tractor was driven over standing crops on the disputed land in question by the accused persons with intention to take over possession and all these accused persons were armed with pistols, lathi, iron rod etc. It was further alleged that informant along with his family members and people of village came to the spot and at that time accused persons attacked them with intention to kill, consequent to which Sompal brother of informant died on the spot and Sunder, Naresh, Mohit, Luvkush and F G

H

- A Ankush were seriously injured. It was further alleged that accused Vikas @ Pappu fired shot at the deceased and the accused persons fled extending threat of death. During the investigation, the statement of injured eye witness – appellant herein has been recorded and he supported the FIR version.
- B 2.1 That thereafter respondent No. 2 herein, after his arrest and after his bail was rejected by the learned Trial Court, approached the High Court by way of present bail application. By the impugned judgment and order without considering the seriousness and/or gravity of the offences committed by the accused more particularly respondent No. 2 and without giving any reason, has released respondent No. 2 on bail.
- C 3. We have heard learned counsel appearing on behalf of the respective parties at length.
 - 4. We have gone through the allegations made in the FIR. It is required to be noted that the land dispute between respondent No. 2 –
- D Mehtab and complainant side is the motive. It is alleged in the FIR that on the earlier night they ran over the tractor on the standing crop and the accused persons tried to take over the possession. That thereafter when the informant and others gathered at the spot the accused persons named in the FIR attacked them and in the said incident brother of the informant died and other persons were seriously injured. The aforesaid aspect has
- E not at all been considered by the High Court while releasing respondent No. 2 on bail. No reason whatsoever has been given by the High Court while releasing respondent No. 2 on bail. When the accused person is facing the trial under Sections 147, 148, 307, 302 and other offences of IPC, which can be said to be very serious offences, the High Court
- F ought to have given cogent reasons while releasing respondent No. 2 on bail except narrating the submissions made on behalf of the accused and the State, no further independent reason has been given by the High Court while releasing respondent No. 2 on bail.
- G 4.1 From the impugned judgment and order passed by the High Court, it appears that it was submitted on behalf of the accused that there was a dark night therefore, it was not possible to identify the accused and/or the person who attacked and it appears that without giving any cogent reason the High Court has *prima facie* accepted the same. However, it is required to be noted that the accused persons were known to the complainant. There was a prior enmity. They came in a tractor.
- H

Therefore, at this stage it could not have been concluded and/or opined that it was not possible to identify the accused. Be that as it may, even otherwise the aforesaid can be said to be a defence on the part of the accused which is required to be considered at the time of trial. In the present case in the FIR the injured - informant – complainant has specifically named the accused persons. Even in his statement recorded under Section 161 of the CrPC the informant has stood by what he has stated in the FIR. Under the circumstances, when the nature of allegations and the seriousness and gravity of the offences has not at all been considered by the High Court and no reasons whatsoever have been assigned by the High Court while releasing respondent No. 2 – accused on bail, the impugned judgment and order passed by the High Court directing to release respondent No. 2 on bail is unsustainable and the same deserves to be quashed and set aside.

5. In view of the above and for the reasons stated above, the present Appeal succeeds. The impugned judgment and order passed by the High Court releasing respondent No. 2 on bail in connection with Case Crime No. 95 of 2021 of Police Station Falavda, District Meerut for the offences punishable under Sections 147, 148, 149, 324, 427, 441, 323, 506, 447, 307, 302 and 34 of IPC, is hereby quashed and set aside. Now, respondent No. 2 – accused to surrender before the concerned Jail Authority forthwith. The present Appeal is accordingly allowed.

Ankit Gyan
(Assisted by : Aarsh Choudhary, LCRA)

Appeal allowed.