

A MOTAMARRI APPANNA VEERRAJU @ MAV RAJU

v.

THE STATE OF WEST BENGAL

(Criminal Appeal Nos. 328-331 of 2020)

B FEBRUARY 20, 2020

[A. M. KHANWILKAR AND DINESH MAHESHWARI, JJ.]

- Bail: Grant of interim relief – Interim protection granted to the appellant by the High Court during the pendency of the bail application in corruption case – Sessions Court had rejected the bail application filed by the appellant whereafter the appellant had filed regular bail application before High Court in August 2018 – Instead of finally disposing of the said bail application with promptitude, High Court granted interim relief on 1.10.2018 and continued that protection until this day – Before the High Court, appellant sought for modification of interim order passed on 1.10.2018 which was declined – Hence the instant appeal – Held: A bail application should be dealt with expeditiously and finally, one way or the other and cannot brook delay – Manner in which the bail application filed in August 2018 remained pending before High Court until this day and that only interim orders were passed thereon from time to time is deprecated – Rejection of bail application of co-accused would not come in the way of appellant who was granted interim protection by High Court which arrangement continued till date without any adverse report against him – To do complete justice in the matter, the main bail application pending before the High Court is disposed of with modification in the conditions predicated in the interim order – Appellant to also furnish bail bond of Rs. 25 lacs – Conditions imposed – Appeal disposed of.*

CRIMINAL APPELLATE JURISDICTION: Criminal Appeal
G Nos. 328-331 of 2020.

From the Judgment and Order dated 15.05.2019, 05.08.2019, 25.09.2019 and 27.11.2019 of the High Court at Calcutta in CRM 6471 of 2018.

H

Neeraj Kishal Kaul, Vinay Navare, Sr. Advs., Gaurav Bhargav, A
Sameer Kumar, Varun Mathur, Bhuwan Mishra, Ms. Niharika, Sharukh
Ahmed, Ms. Nidhi Sahai, Advs. for the Appellant.

Sidharth Luthra, Sr. Adv., Suhaan Mukerji, Vishal Prasad, Abhishek
Manchanda, Ms. Mehak Jaggi, Aryan Dev Uniyal, Ankit Dhawan, Amit
Verma, Ms. Kajal Dalal, M/s. PLR Chambers and Co., Advs. for the B
Respondent.

The following Order of the Court was passed:

O R D E R

1. Delay condoned. C

2. Leave granted.

3. These appeals take exception to the judgment(s) and order(s) dated 15.05.2019, 05.08.2019, 25.09.2019 and 27.11.2019 passed by the High Court of Judicature at Calcutta in C.R.M. No.6471 of 2018 granting interim protection to the appellant during the pendency of the bail application which was filed in August, 2018 in connection with offence punishable under Sections 384/385/389/119/403/120B/411/467/468/471/409 IPC and 13(1)(c)/13(1)(d)/13(1)(3) r/w 13(2) Prevention of Corruption Act, 1988. D

4. We have heard learned counsel for the parties. E

5. For the nature of order that we propose to pass, it is unnecessary to dilate on the factual matrix of the case, except to observe that the investigation in connection with F.I.R. No. 27 of 2018, Daspur Police Station has already progressed and is at an advance stage of completion, as can be discerned from the chargesheet dated 28.06.2018 and supplementary chargesheet dated 24.08.2019 qua the appellant before this court. F

6. The Sessions Court rejected the bail application filed by the appellant whereafter the appellant filed regular bail application before the High Court in August, 2018. Instead of finally disposing of the said bail application with promptitude, the High Court for the reasons, which are not clear to us, chose to grant interim relief to the appellant vide order dated 01.10.2018 and continued that protection until this day. The order dated 01.10.2018 reads thus: - G

H

- A "...Accordingly, we direct that the petitioner shall be released on interim bail upon furnishing bond of Rs. 1,00,000/- (Rupees One Lakh only) with two sureties of like amount, one of whom shall be local, to the satisfaction of the learned Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipore, on condition that the he shall not leave the jurisdiction of municipal limits of city of Kolkata until further orders except with the permission of this Court and on condition that he shall provide the address where he shall presently reside to the investigating officer as well as the trial court and on further condition he shall meet the investigating agency one in a week until further orders. He shall not intimate the witnesses and/or tamper with evidence in any manner whatsoever and he shall appear before the trial court on every date of hearing and in the event he fails to do so, his bail shall stand automatically cancelled without further reference to this Court.
- B Interim bail shall continue till 30th November, 2018 or until further orders, whichever is earlier. Matter will appear for further hearing on 26th November, 2018.
- C Urgent Photostat certified copy of this order, if applied for, be delivered to the learned advocates for the parties, upon compliance of usual formalities."
- D 7. As aforesaid, the High Court for some reason kept the bail application pending from August, 2018 and instead passed successive interim orders until 23.11.2019, which are referred to above.
- E 8. The last attempt made by the appellant was for modification of the interim order passed on 01.10.2018. That prayer, however, was answered against the appellant as a result of which the appellant rushed to this court by way of the present appeal.
- F 9. In the facts of the present case, instead of deciding the limited issue about modification of interim order passed by the High Court, in the interest of justice, we deem it appropriate to dispose of the main bail application filed by the appellant, vide this order. We are conscious that such a course should be ordinarily eschewed but being convinced about the peculiar fact situation of this case, that approach would meet the ends of justice.
- G 10. At the outset, we record our displeasure about the manner in which the bail application filed in August, 2018 has remained pending

before the High Court until this day and only interim orders have been passed thereon from time to time as referred to above. We have no hesitation in observing that adopting such a course, that too, by a constitutional Court, is wholly unfathomable and must be eschewed. For, the application for bail or anticipatory bail is a matter of moment for the accused and protracted hearing thereof may also cause prejudice to the investigation and affect the prosecution interests which cannot be comprehended in this order. Such application needs to be dealt with expeditiously and finally, one way or the other and cannot brook delay.

A

11. It is not necessary for us to go into the question as to who is responsible for the situation but, at the same time, we need to deprecate the course or process followed in the present case. We say no more.

B

C

12. Be that as it may, to do complete justice in the matter, we deem it appropriate to dispose of the main bail application pending before the High Court since August, 2018 in terms of this order by modifying the conditions predicated in the interim order(s) and which had enured in favour of the appellant since 01.10.2018, in the peculiar facts of the present case.

D

13. We are conscious of the fact that co-accused, whose bail application was rejected by the High Court, had approached this court and his Special Leave Petition being SLP (Crl.) No. 10310 of 2019 has been dismissed by this court on 09.12.2019. However, that order itself makes it clear that even that accused is free to approach the concerned Court after expiry of six months' time, for bail.

E

14. In our opinion, rejection of bail application of the co-accused ought not to come in the way of the appellant herein, who, as aforesaid, was granted interim protection by the High Court vide interim order on 01.10.2018 and which arrangement has been continued till now without any adverse report against him, including of having jumped any condition imposed by the High Court.

F

15. The only question is about the nature of conditions to be imposed to ensure that the further investigation, if any, against the appellant can be conducted in a fair manner and also the trial against the appellant is not affected either way.

G

16. Accordingly, after hearing both the sides, we deem it appropriate to dispose of the bail application filed by the appellant on the following terms:

H

- A 1. The appellant shall furnish bail bond in the sum of Rs.25,00,000/- (Rupees Twenty-Five Lakh only) with two sureties of the like amount, one of whom shall be local resident, to the satisfaction of the Additional Chief Judicial Magistrate, Ghatal, Paschim Medinipore.
- B 2. The appellant shall not travel outside India without prior permission of this Court.
- C 3. The appellant shall not enter Paschim Medinipore District except for attending the proceedings pending against him in the concerned court, with prefix and suffix of one day.
- D 4. The appellant shall forthwith furnish his ordinary place of residence to the Investigating Officer, if there is any change from the one already furnished by him in terms of this order.
- E 5. The passport of the appellant already deposited by him shall remain in the custody of CID, West Bengal.
- F 6. The appellant shall not intimidate the witnesses and/or tamper with the prosecution evidence in any manner whatsoever and he shall appear before the trial court on every date of hearing and in the event he fails to do so, his bail shall stand automatically cancelled without further reference to this Court, unless his presence has been expressly exempted by the Court in advance, for reasons to be recorded therefor.
- G 7. The appellant shall report to the Investigating Officer on first Monday of every English Calendar month between 10 a.m. to 12 noon; and on such other days and time as may be required by the Investigating Officer for the purpose of investigation, provided 48 hours advance notice is given to the appellant in that behalf.
- H 8. The bail application filed by the appellant in the High Court being CRM No. 6471 of 2018 stands disposed of in terms of this order.
- I 9. The appeals are disposed of in the above terms.
- J 10. Pending applications, if any, stand disposed of.