

Yashpal Singh vs The State Of Uttar Pradesh on 28 March, 2023

Author: M.R. Shah

Bench: M.R. Shah, C.T. Ravikumar

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 812 OF 2023
(Arising from SLP(Criminal) No. 3435/2023
@ Diary No. 36715/2022

Yashpal Singh

...Appellant

Versus

State of Uttar Pradesh and Another

...Respondents

WITH
CRIMINAL APPEAL NO. 816 OF 2023
(Arising from SLP(Criminal) No. 3484/2023
@ Diary No. 40312/2022

CRIMINAL APPEAL NO. 813 OF 2023
(Arising from SLP(Criminal) No.3436/2023
@ Diary No. 37584/2022

JUDGMENT

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned orders dated 4.3.2022, 19.01.2022 and 09.02.2022 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Bail Application Nos. 3082/2022, 201/2022 and 3078/2022, by which the High Court has directed to release the respective original applicants – accused, namely, Narendra s/o Mehtab, Krishanpal s/o Rakam Singh and Harendra s/o Mehtab on bail in connection with FIR being Case Crime No. 95/2021 for the offences punishable under Sections 147, 148, 149, 324, 427, 441, 323, 506, 447, 307, 302 and 34 of the IPC, P.S. Falavda, District Meerut, the original informant/complainant has preferred the present appeals.

2. Learned counsel appearing on behalf of the original informant/complainant has vehemently submitted that in the facts and circumstances of the case, the High Court has materially erred in releasing the respondents – accused on bail and that too in a case where the offences alleged are for the offences under Section 302 etc. of the IPC.

2.1 It is vehemently submitted by the learned counsel appearing on behalf of the complainant that the High Court has not properly appreciated the fact that the accused Narendra surrendered only after issuance of process under section 82 of the Cr.P.C.. It is submitted that even the accused Narendra and Harendra both were absconding and vide order dated 10.10.2021 proclamation under section 82 of the Cr.P.C. was issued and only thereafter they surrendered. It is submitted that though the aforesaid facts were pointed out to the High Court, the High Court has not considered the same and has completely ignored the same.

2.2 It is further submitted by the learned counsel appearing on behalf of the complainant that even the High Court has failed to consider that the recovery of country made pistol has been effected at the instance of the accused Narendra and his brother Harendra.

2.3 It is submitted that the High Court has not properly appreciated the fact that all the accused, namely, Narendra, Krishanpal and Harendra have been specifically named in the FIR and also in the statement of the complainant recorded under Section 161 Cr.P.C. It is submitted that the High Court has not properly appreciated the fact that all the accused were part of the unlawful assembly and Narendra and Harendra both are the sons of Mehtab with whom there was a property dispute and their brother Vikas who caused gunshot injury which resulted in death of Sompal, brother of the complainant. It is submitted that the accused Krishanpal was also part of the unlawful assembly and his tractor was used to destroy the crops standing on the field and the same was also mentioned in the FIR as well as in the statement of the complainant. 2.4 It is further submitted that the High Court has not properly appreciated the nature, gravity and seriousness of the offences committed, which is the relevant consideration while considering the grant of bail.

2.5 Making above submissions and relying upon the decision of this Court in the case of Yashpal Singh v. State of Uttar Pradesh (Criminal Appeal No. 1509/2022, decided on 15.09.2022), by which with respect to the very crime case, the bail in favour of accused Mehtab, father of the accused Narendra and Harendra in the present case, was cancelled by this Court, it is prayed to quash and set aside the impugned orders passed by the High Court releasing the accused on bail.

3. The present appeals are vehemently opposed by the learned counsel appearing on behalf of the accused. It is submitted that in all these cases the respective accused are on bail since March, 2022/January, 2022/February, 2022 respectively and thereafter there are no allegations of misuse of the liberty shown to them and therefore the impugned orders passed by the High Court releasing them on bail may not be interfered with by this Court now.

3.1 It is further submitted that even otherwise the trial has begun and therefore also the impugned orders passed by the High Court releasing the accused on bail may not be interfered with by this Court. 3.2 It is further submitted that as there was a land dispute with the father of the accused,

namely, Mehtab, the family members of Mehtab have been falsely implicated in the case.

3.3 Making above submissions, it is prayed to dismiss the present appeals.

4. We have heard learned counsel for the respective parties at length.

We have gone through the allegations made in the FIR. It is required to be noted that the land dispute between the father of the accused, namely, Mehtab and the 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 the respective accused on bail. As such, no reasons whatsoever have been given by the High Court while releasing the respective accused on bail. When the accused persons are 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 the respective accused on bail. `Except narrating the submissions made on behalf of the accused and the State, no further independent reasons have been given by the High Court while releasing the respective accused on bail. It is to be noted that in one of the impugned orders, the High Court has noted the reason of overcrowding of jails. However, for the serious offences like this, the aforesaid cannot be the consideration to release the respective accused on bail. All the three accused were part of the unlawful assembly and the independent overt act cannot be a ground to release the accused on bail, once they are found to be part of the unlawful assembly.

5. In the present cases, in the FIR, the injured – informant – complainant has specifically named the accused persons. Even in his statement recorded under Section 161 Cr.P.C., 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 have not at all been considered by the High Court and no cogent reasons have been assigned by the High Court while releasing the respective accused on bail, the impugned judgment and orders passed by the High Court directing to release the respondents – accused on bail are unsustainable and the same deserve to be quashed and set aside.

6. Now so far as the submission on behalf of the accused that they have been released on bail in the months of March, 2022/January, 2022/February, 2022 and thereafter there are no allegations of misusing the liberty shown to them and therefore the bail may not be cancelled is concerned, the same cannot be accepted. What is required to be considered is the impugned orders passed by the High Court releasing the accused on bail, which as observed hereinabove are unsustainable.

7. In view of the above and for the reasons stated above, all these appeals succeed. The impugned judgment and orders dated 04.03.2022, 19.01.2022 and 09.02.2022 releasing the respondents – accused on bail, namely, Narendra s/o Mehtab, Krishanpal s/o Rakam Singh and Harendra s/o Mehtab in connection with Case Crime No. 95/2021 dated 30.06.2021 for the offences punishable under Sections 147, 148, 149, 324, 427, 441, 323, 506, 447, 307, 302 and 34 of the IPC are hereby

quashed and set aside. Now the respective accused, namely, Narendra s/o Mehtab, Krishanpal s/o Rakam Singh and Harendra s/o Mehtab to surrender before the concerned Jail authorities forthwith, failing which they be taken into custody forthwith.

8. The present appeals are accordingly allowed.

..... J .
[M.R. SHAH]

NEW DELHI;
MARCH 28, 2023.

..... j .
[C.T. RAVIKUMAR]