

Naveen Singh vs The State Of Uttar Pradesh on 15 March, 2021

Equivalent citations: AIR 2021 SUPREME COURT 1428, AIR ONLINE 2021 SC 138

Author: M. R. Shah

Bench: M. R. Shah, Dhananjaya Y. Chandrachud

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REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 320 OF 2021

[Arising out of Special Leave Petition (Crl.) No. 2545 of 2021]

NAVEEN SINGH

.. Appell

Versus

THE STATE OF UTTAR PRADESH & ANR.

.. Responden

JUDGMENT

M. R. Shah, J.

Leave granted.

2. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 22.05.2020 passed by the High Court of Judicature at Allahabad, Lucknow Bench in Bail Application Case No.1398 of 2020 by which the High Court has released Respondent No.2 herein [accused on bail in Case Crime No.433 of 2019 under Sections 420, 467, 468, 471, 120B IPC registered in Police Station Kotwali, District Unnao, the original informant has preferred the present appeal.

3. That the Record Keeper of the Civil Court, Unnao on the order of the District Judge, Unnao has lodged an FIR against Respondent No.2 herein for the offences under Sections 420, 467, 468, 471,

120□B IPC. It is required to be noted that before the said FIR was lodged, a writ petition was filed by the appellant herein before the High Court of Judicature at Allahabad, Lucknow Bench being Misc. Bench No.37206 of 2018 for issuance of writ of mandamus to take action on the complaint made by him against Respondent No.2 herein for committing forgery in Court record. At that time, it was alleged that there was a fabrication in the court record by way of using whitener in Sessions Trial No.89□A/01, State vs. Mahesh, under Sections 307, 504 and 506 IPC, Crime Case No.152/2000, Police Station Makhi, District Unnao. The court record was tampered with and instead of 'Mahesh', 'Ramesh' had been written. Considering the gravity of the matter, the High Court called for □the comments of the Learned Additional Sessions Judge/Fast Track Court, Unnao. It appears that earlier in the order dated 14.11.2018 the very Learned Additional Sessions Judge/Fast Track Court, Unnao made certain observations with respect to the fabrication in the court record. Therefore, the High Court thought it fit to call his comments as to in context of which document the observations were made in order dated 14.11.2018. It appears that thereafter the Learned Additional Sessions Judge sent his comments/enquiry report dated 09.01.2019 indicating that the judicial record pertaining to Sessions Trial No.89□A/01, State vs. Mahesh, under Sections 307, 504 and 506 IPC, Crime Case No.152 of 2000, Police Station Makhi, District Unnao, was tampered with. The High Court directed District and Sessions Judge, Unnao to take notice of the record dated 09.01.2019 and ensure that the needful is done. Thereafter on the order of the Learned District and Sessions Judge, Unnao, the Record keeper has lodged the aforesaid FIR against Respondent No.2 herein – Mahesh for the offences stated hereinabove.

As per the averments and allegations made in the FIR, a common order was passed on 23.12.2002 by the Learned Additional Sessions Judge, Unnao in Sessions Case No.583/2000 State Vs. Pappu Singh under Section 307/504/506 IPC PS Makhi, District Unnao Case No.152/2000, Sessions Case Crime No.153/2000 and Session Case No.89/2001 State Vs. Guddu Singh under Sections 307/504/506 IPC Crime No.152/2000 that the certified copy of the same was obtained by the appellant – Shri Naveen Singh on 04.05.2012 in which name of any of the accused was not extended. A certified copy of the decision of the said sessions case dated 23.12.2002 was obtained by the appellant herein in which the name of Respondent No.2 – Mahesh was found to be mentioned in the order. Though the judgment was not passed in the above sessions case against Mahesh. A certified copy of the said decision/order was obtained on 04.05.2012. In the first page of the decision; case of Mahesh was separated as he absconded. The certified copy of the said order dated 23.12.2002 was received by the appellant on 17.12.2015, then in its order on page 10, the name of the accused – Mahesh was added with the pen. Therefore, it was alleged that first the name has been inscribed and the whitener has been applied, which seems to be a fraud. Second, the name of the accused –Ramesh has been added/inserted in page no.1, while there was no accused by name of Ramesh. That a Special Case No.11/12 Crime No.132/2002 under Section 2/3 of the U.P. Gangsters and Antisocial Activities (Prevention) Act, 1986 hereinafter referred to as 'the Gangsters Act', against Mahesh was pending and under consideration in Special Court Judge/Gangster Act/Additional Sessions Judge Court No.5, Unnao, in which a certified copy of the decision and the order dated 23.12.2002 on behalf of Mahesh Singh, Paper No.B/346 was presented, showing that Shri Mahesh Singh was acquitted in the said case. Having found that Mahesh Singh was acquitted in all the cases shown in the Gangsters Act including the Special Case No.583/2000, the Learned Special Court (Gangsters Act) acquitted the said Mahesh Singh. The said Mahesh Singh is the

beneficiary of the interpolation/manipulation/forgery of the court record therefore, it was alleged that Respondent No.2 herein – original accused has committed the offences under Sections 420, 467, 468, 471, 120B IPC.

3.1 That thereafter and after his arrest, Respondent No.2 herein – Mahesh – accused filed an application for regular bail before the Learned Sessions Court. That the Learned Additional Sessions Judge, Unnao by a detailed order dated 07.11.2019 dismissed the said bail application observing that the allegations against the accused are very serious of forging the court's records and that the accused is the beneficiary of the said forgery and therefore this is not a fit case to release him on bail. That thereafter Respondent No.2 herein [accused] approached the High Court by way of Criminal Misc. Case No.1398/2020 for regular bail. Before the High Court, it was also contended on behalf of the accused that there is a possibility that the manipulation in the certified copy of the judgment issued by the Court might have been committed by his Pairokar named Pappu Singh, his brother who applied and obtained the copy. It was his case that he was unknown of any such act as he was not physically involved. By the impugned judgment and order, the High Court has released Respondent No.2 – accused on bail by observing in one para as under:

“Since the innocence and complicity of the accused can be decided only after taking evidence with regard thereto. Therefore, without commenting anything on merit of the case, as to the complicity, involvement and severances of the offences, the case being triable by Magistrate and the chargesheet having been filed and the accused is languishing in jail since 22.11.2018, I find force in the submissions made by of learned counsel for the bail [applicant] for grant of bail.”

4. Feeling aggrieved and dissatisfied with the impugned judgment and order passed by the High Court releasing Respondent No.2 – accused on bail, the original informant has preferred the present appeal. State has supported the present appeal.

5. Learned Counsel appearing on behalf of the appellant has vehemently submitted that while releasing Respondent No.2 [accused] on bail, the High Court has not at all considered the seriousness of the charge against the accused and the gravity of the matter.

5.1 It is submitted that the High Court ought to have appreciated that this is a case of manipulation and forgery of the court record and as per the enquiry report of the Learned Additional Sessions Judge, there was interpolation in the court record. It is submitted that interpolation and manipulation of the court record is a very serious offence. It is submitted that earlier High Court took note of the enquiry report submitted by the Additional Sessions Judge and thereafter directed the District and Sessions Judge to take further steps and thereafter on the order passed by Learned District and Sessions Judge, the FIR was lodged.

5.2 It is submitted that as such Respondent No.2 – accused is the beneficiary of such manipulation/forgery. It is submitted that as such manipulated and forged court order was produced before the court in another case under the Gangsters Act and in the case under the Gangsters Act it was submitted on the basis of the forged order that he has been acquitted and

considering that as one of the ground the Special Court, Gangsters Act acquitted the Respondent No.2 herein accused. It is submitted that therefore Respondent No.2 – accused as such got the benefit of such forged, manipulated court order. It is submitted that even according to the respondent – accused the manipulation might be by his brother Pappu Singh who was Pairokar on behalf of the appellant. It is submitted that as such in the proceedings under the Gangsters Act, a common defence was filed on behalf of Pappu Singh as well as the accused Mahesh. It is submitted that therefore, even if it is assumed for the time being that the same might have been done by Pappu Singh – his brother, in that case also, Mahesh is the beneficiary of such forged and manipulated court record and, in fact, he got the benefit of such forged and manipulated court record, the accused must be aware and he cannot plead the ignorance. 5.3 It is submitted that as such respondent – Mahesh Singh absconded for 18 years in Crime Case No.152/2000 and Sessions Case No.583/2000 and, in fact, his trial was separated. 5.4 It is further submitted that as such no reasons whatsoever have been given by the High Court while releasing Respondent No.2 – accused on bail. It is submitted that when Respondent No.2 – accused is facing the very serious allegations of forgery and manipulation of the court record and looking to the gravity of the matter, the High Court ought to have given some reasons while releasing him on bail, though no detailed discussion on merits.

5.5 It is submitted that while releasing Respondent No.2 – accused on bail, the High Court only stated that the case is triable by the Magistrate Court and that he has undergone 1 year and 6 months imprisonment. It is submitted that however the High Court has not considered that the maximum punishment is 10 years and even imprisonment for life as per Section 467 read with Section 471 IPC.

Making the above submissions, it is prayed to allow the present appeal and quash and set aside the impugned judgment and order passed by the High Court releasing Respondent No.2 □accused on bail.

6. Learned Counsel appearing on behalf of the State has supported the present appeal. A counter affidavit is filed on behalf of Respondent No.1 □State of U.P. It is submitted that Mahesh Singh is a history□sheeter and many cases of murder, attempt to murder, Gangsters Act, etc. are pending against him. It is submitted that on investigation it is found that, in fact, the Respondent No.2 – accused has got the benefit of the forged and manipulated court order and got himself acquitted in the case under the Gangsters Act. It is submitted that therefore looking to the seriousness of the offence as alleged against Respondent No.2 – accused and considering the gravity of the matter, the High Court ought not to have released Respondent No.2 – accused on bail.

7. Ms. Sakshi Kakkar, Learned Counsel appearing on behalf of Respondent No.2 while opposing the present appeal and supporting the impugned judgment and order of the High Court releasing Respondent No.2 on bail has vehemently submitted that in the facts and circumstances of the case the High Court has not committed any error in releasing the accused on bail. It is submitted by Learned Counsel that by releasing the accused on bail, the High Court has acted within the well known parameters of grant of bail.

It is submitted that this Court in catena of cases has observed that while dealing with the issue of grant of bail, the Court should examine as to whether:

- (i) accused can tamper with the evidence.
- (ii) influence witness
- (iii) evade trial/investigation.

7.1 It is submitted that in the present case Respondent No.2

has been granted police protection pursuant to the order passed by this Court. It is submitted that therefore there are no chances to evade trial and/or to influence the witnesses. It is submitted that even the charge sheet has been filed now and the charges have been framed in 2019. It is submitted that in the present matter, all the six witnesses are the Government witnesses and most of them are court's staff and therefore, there are no chances for the respondent to influence them. It is submitted similarly that all the documentary evidence in the present case are also in the custody of the Court and therefore no chance of the accused to tamper with the same. In support, she has relied upon the decision of this Court in case of P.Chidambaram vs. Central Bureau of Investigation, (2020) 13 SCC 337. It is further submitted that as per catena of decision of this Court, bail is the rule and jail is the exception. It is submitted that, in fact Respondent No.2 has been framed and falsely implicated. It is further submitted that in catena of cases this Court, in the cases involving Sections 468, 471 IPC, has granted bail to the accused while considering the period of incarceration. Reliance is placed on Sharad T. Kabra vs. Union of India, (2018) 14 SCC 493; Seema Singh vs. CBI, (2018) 16 SCC 10; Manish Solanki vs. State of Rajasthan, (2019) 4 SCC 340. It is further submitted that even it cannot be said that the allegations made in the FIR are prima facie established. It is submitted that neither in the FIR nor in the charge sheet it has been mentioned that Mahesh Singh and/or by any of his acquaintances has applied for certified copy of order dated 23.12.2002. It is submitted that if the said order has not been obtained by Mahesh Singh or by any of his acquaintances, then the issue of using it in S.T. No.11 of 2012 does not arise.

7.2. Number of other submissions have been made by the Learned Counsel appearing for Respondent No.2 to the effect that Respondent No.2 accused Mahesh has not used the order alleged to have been fabricated in the case against him under the Gangsters Act.

7.3 It is further submitted that even it is also not true that Respondent No.2 – accused has absconded for last 18 years as alleged.

7.4 It is further submitted by Learned Counsel appearing on behalf of the accused that now the appellant and the State are sharing hand in gloves against the accused.

7.5 It is submitted that in any case the appellant has no locus to assail the grant of bail sought by Respondent No.2. It is submitted that he is neither the complainant nor the affected person from the alleged offence in Case Crime No.433 of 2019. It is submitted that on the contrary, he has his

personal motive in keeping the accused behind the bar, as the appellant and his father are accused in FIR No.305 of 2019 with respect to killing the appellant's wife. Relying upon the decision of this Court in the case of Amanullah vs. State of Bihar, (2016) 6 SCC 699, it is submitted that the present application at the instance of the appellant who is a third person and who is not connected with the matter under consideration and is having a personal grievance against the accused may not be entertained. 7.6 It is submitted that even the present petition is being politically motivated and therefore it is requested not to entertain the present appeal at the instance of the appellant.

8. Heard learned counsel appearing on behalf of the respective parties at length and perused the impugned judgment and order passed by the High Court, whereby Respondent No.2 □accused is released on bail.

8.1 At the outset, it is required to be noted that Respondent No.2 □accused is facing the trial for the offences under Sections 420, 467, 468, 471, 120□B IPC. It is also required to be noted that the FIR has been lodged by the record keeper of the court on the order passed by the District and Sessions Judge, Unnao. After the enquiry report submitted by the Learned Additional District and Sessions Judge, Unnao in which it was stated that the Court record has been manipulated and forged, the High Court directed the Learned District and Sessions Judge to look into the report and take further action and thereafter the FIR has been lodged against the respondent – accused for the aforesaid offences. If we consider the allegations, in that case, the allegations are very serious of tampering and/or manipulating the court record and Respondent no.2 has taken the benefit of such forged/manipulated court order in another case. It is also required to be noted that now after the investigation is concluded, the charge□sheet has been filed against the Respondent – accused and even the charges have also reported to be framed. Thus, a prima facie case is found against the accused for the aforesaid offences. 8.2 If we consider the impugned judgment and order passed by the High Court, it appears that High Court has not adverted itself to the seriousness of the case and the offences alleged against Respondent no.2 – accused and the gravity of the matter. From the impugned order, it appears that the High Court has released Respondent No.2 – accused on bail in a routine and casual manner and without adverting to the seriousness of the offence and the gravity of the matter relating to forgery and/or manipulating the court order. From the impugned judgment and order passed by the High Court, it appears that High Court has only observed that since the innocence and complicity of the accused can be decided only after taking evidence with regard thereto, without commenting anything on merit as to the complicity, involvement and severeness of the offences, the case being triable by the Magistrate and the charge sheet having been filed and the accused is languishing in jail since 22.11.2018, is entitled to be released on bail.

However, the High Court has not at all considered that the accused is charged for the offences under Sections 420, 467, 468, 471, 120□B IPC and the maximum punishment for offence under Section 467 IPC is 10 years and fine/imprisonment for life and even for the offence under Section 471 IPC the similar punishment. Apart from that forging and/or manipulating the court record and getting benefit of such forged/manipulated court record is a very serious offence. If the Court record is manipulated and/or forged, it will hamper the administration of justice. Forging/manipulating the Court record and taking the benefit of the same stands on altogether a different footing than forging/manipulating other documents between two individuals. Therefore, the High Court ought to

have been more cautious/serious in granting the bail to a person who is alleged to have forged/manipulated the court record and taken the benefit of such manipulated and forged court record more particularly when he has been charge-sheeted having found prima facie case and the charge has been framed. 8.3 Now, so far as the submissions on behalf of the accused that he has not obtained the certified copy of the judgment and order of the Learned Sessions Court dated 23.12.2002 in which there are allegations of forging and manipulation and he has not produced the same in the case against him under the Gangsters Act is concerned. From the order passed by Learned Special Court Gangsters Act, it appears that the judgment and order passed by the Learned Sessions Judge dated 23.12.2002 was produced in which Respondent No.2 – accused Mahesh was shown as acquitted. On the basis of the same, the Learned Special Court acquitted Respondent No.2 accused. Therefore, in fact, he is the beneficiary of the said forged/manipulated court order. The Special Court has taken note of the order. It is the case on behalf of the accused that it might have been produced by his brother – Pappu Singh who was doing Pairokar on his behalf. The aforesaid is neither here nor there. Once he is the beneficiary of such forged/manipulated court order and having taken advantage of such order thereafter it will not be open for the respondent accused to contend that it might have been done by his brother Pappu Singh who was doing Pairokar on his behalf.

At this stage, it is required to be noted that Pappu Singh has died subsequently. We do not express anything further on merits and go into detail as the trial is yet to take place and any further observation on merits may affect the case of the accused. Suffice it to say that in the facts and circumstances of the case and looking to the very serious allegations of forging/manipulating court order and having taken advantage of the same, the High Court is not justified in releasing Respondent No.2 on bail. Merely because the charge-sheet is filed is no ground to release the accused on bail. The submission on behalf of the accused that as the record is now in the court's custody there is no chance of tampering is concerned, the allegation against the respondent accused are of tampering/forging/manipulating the court record which was in the custody of the court. Seriousness of the offence is one of the relevant considerations while considering the grant of bail, which has not been considered at all by the High Court while releasing Respondent No.2 accused on bail.

8.4 Now, so far as the submission on behalf of the respondent – accused that the appellant has no locus to file the present application for cancellation of the bail is concerned, it is required to be noted that in fact, it was the appellant who approached the High Court alleging tampering of court record by the Respondent No.2 accused and thereafter, the High Court directed the Learned Additional Sessions Judge to submit his comments and thereafter the Learned Additional Sessions Judge submitted its enquiry report and thereafter, the FIR has been lodged. Therefore, it cannot be said that the appellant has no locus to file the present application for cancellation of the bail. Even otherwise in a case like this, where the allegations are of tampering with the court order and for whatever reason the State has not filed the bail application the locus is not that much important and it is insignificant.

9. In view of the aforesaid reasons, the impugned judgment and order passed by the High Court releasing Respondent No.2 accused on bail is unsustainable and deserves to be quashed and set

aside and is accordingly set aside.

Now Respondent No.2 is accused to surrender forthwith as a consequence of cancellation of the bail granted by the High Court, if not surrendered. However, it is made clear that any observations made by this Court in the present order be treated to have been confined to the grant of bail and the trial to be proceeded further and conducted in accordance with law and on its own merits.

Present appeal is allowed accordingly.

.....J. [Dr. Dhananjaya Y. Chandrachud]J.
[M. R. Shah] New Delhi, March 15, 2021