

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NO.1383 OF 2018
(arising out of SLP (Crl.) No. 8413 of 2017)

MANOJ KUMAR

Appellant(s)

Versus

STATE OF UTTAR PRADESH AND
ANOTHER

Respondent(s)

ORDER

Leave granted.

This appeal by special leave is directed against order dated 29.8.2017 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Bail Application No. 3000 of 2017 granting bail to the accused—respondent No. 2 who was charged with the offence punishable under Section 302/34, IPC in Case Crime No. 376 of 2016.

The prosecution case, in brief, against Respondent No. 2 is that on the intervening night of 7th/8th September, 2016 the accused—respondent No. 2 along with other accused persons visited the house of complainant at about 2 am, called out his brother Prashant (deceased) and took him away on motor cycle in presence of eyewitnesses, on the pretext of some

urgent matter and killed him after giving severe beatings and ran a tractor over the deceased after placing him on a cot. On a hue and cry made by the eyewitnesses, the accused ran away from the spot. The motive behind committing the crime is allegedly linked to previous financial transactions between the accused and the deceased. The FIR was registered against the accused at the instance of complainant—appellant herein at 7.30 a.m. on 8th September, 2016 for offences punishable under Section 302/34, IPC. The Investigating Officer made recoveries from the spot of occurrence and postmortem of deceased was done wherein the cause of death was specified as due to shock and hemorrhage.

The initial bail application moved by Respondent No. 2 before the learned Sessions Judge came to be dismissed with the observations that there were eight ante mortem injuries on the body of the deceased and the offence being of a serious nature. The accused—respondent No. 2 then moved the High Court, and by the order impugned herein, the High Court granted him bail.

Learned counsel for the appellant—complainant submitted that the High Court has simply granted bail to the

accused without following the basic principles of criminal law. Totally ignoring the evidentiary value of the prosecution case and the seriousness of allegations levelled against the respondent No.2 who brutally killed the deceased and inhumanly ran the tractor over him in presence of eyewitnesses, the High Court allowed his bail application and thereby put the life of the appellant and his family members at risk. Ever since the accused released on bail, the complainant's family is being threatened with dire consequences if they depose against the accused. Learned counsel further submitted that since the trial is at evidence stage, in all probability, the accused will tamper and weaken the prosecution case with constant threats to the eyewitnesses and therefore prayed for setting aside the impugned order passed by the High Court .

Learned counsel for the Respondent No. 2 supported the order passed by the High Court granting bail to the accused.

We have also heard learned senior counsel appearing for the State and perused the counter affidavit wherein it is believed by the State that the High Court was not justified in granting bail to the accused—respondent No.2. We are

constrained to observe that though it is the responsibility of the State to protect the victims and contest the case against accused, in the instant matter, the State did not bother to take effective steps. Not only it failed to file a petition seeking cancellation of bail against the accused, the State remained negligent and did not even feel it necessary to enter appearance and contest the matter. It is only after this Court took serious view and directed the State on 29th October, 2018 calling the Principal Secretary (Law) to muster his presence and explain the reasons, the State entered appearance and filed counter affidavit on November 3, 2018 i.e. more than a year after issuing notice on 30th October, 2017.

Mr. V. Shekhar, learned senior counsel appearing for the State made an attempt to assure this Court that henceforth, he will ensure appearance of State counsel in all matters and also timely filing of counter affidavits. However, we are not satisfied with the mere oral assurance and therefore, while expressing our displeasure, we direct the Chief Secretary as well as the Principal Secretary (Law), State of Uttar Pradesh to file affidavits within four weeks from today, indicating therein the steps which they are going to take to avoid recurrence of

such negligence by the State.

From the counter affidavit filed by the State, it is evident that subsequent to the instant crime, another Case Crime No. 512 of 2017, dated 30.09.2017 has also been registered in police station Dibiyapur against the accused—respondent No. 2, under Section 506, IPC for threatening the complainant—appellant putting pressure on him to withdraw the instant case. It is also alleged in the counter affidavit that if the accused—Respondent No. 2 is granted bail, there is likelihood of influencing the eyewitnesses.

Having heard learned counsel, we have also perused the material on record. The High Court, unfortunately, passed the impugned order in a casual way granting bail to the accused – respondent No.2 without assigning any valid and proper reason. Taking note of that and upon considering the facts and circumstances of the case, we deem it necessary and therefore cancel the bail granted by the High Court to the accused – respondent No.2. Considering the fact that the trial is going on, it is not proper for us to give more details about the case.

We direct the trial Court to speed up the trial and dispose

of the case as expeditiously as possible, preferably within a period of six months from the date of receipt of copy of this order. The accused—respondent No. 2 is at liberty to file fresh application for bail before the trial Court, after sometime. Needless to say that if such an application is filed, the trial Court will consider the same on its own merits, uninfluenced by any observations made by this Court.

The appeal is, accordingly, allowed.

Registry is directed to place before this Court soon after the affidavits are filed by the Chief Secretary as well as Principal Secretary (Law), State of Uttar Pradesh.

.....J.
(N.V. RAMANA)

.....J.
(MOHAN M. SHANTANAGOUDAR)

**New Delhi,
November 13, 2018**