NON-REPORTABLE

IN THE SUPREME COURT OF INDIA

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.76 OF 2022
(ARISING OUT OF SLP(CRL.) NO. 6329 OF 2020)

JAIBUNISHA .....APPELLANT(S)

VERSUS

MEHARBAN & ANR. ....RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.77 OF 2022
(ARISING OUT OF SLP(CRL.) NO. 1337 OF 2021)

JAIBUNISHA .....APPELLANT(S)

VERSUS

JUMMA & ORS. ....RESPONDENT(S)

J U D G M E N T

NAGARATHNA J.

These appeals have been preferred by the informant - appellant assailing the orders dated 7th October, 2020 and 17th November, 2020 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Bail Application Nos. 29759 of 2020 and 39886 of 2021 respectively whereby bail has been granted to six persons accused in Sardhana P.S. Crime Case No.955 of 2018.

2. It is the case of the appellant that she is the mother of the deceased Yameen. She is stated to be an eyewitness to the attack on her sons, namely Yameen and Mobin and her husband, Jamshed. The appellant herein is the person who lodged the First Information Report being FIR No. 955/2018 for offences under sections 147, 148, 452, 324, 307, 302, 504, 506 with section 34 of the Indian Penal Code (for short, the 'IPC'). In all eleven accused were named in the FIR, being respondent no.1 in Criminal Appeal No.76/2022, namely Meherban; respondent no. 1 to 5 in Criminal Appeal No.77/2022, namely Jumma, Hakmeen, Yaseen, Arshad and Firoz, and five more persons namely, Bhoora, Shahid, Sullad, Yamin and Dev.

3. That FIR No. 955/2018 dated 27th August, 2018 is stated to have been filed by the appellant herein at around 21:05 hrs in the night stating that at around 18:00 hrs of the same day the accused, armed with swords and knives entered appellant's house with a common intention to attack and kill Yameen and Mobin, sons of the appellant and Jamshed, appellant's husband. That on entering the house, they started hurling abuses and attacked the sons and husband of the appellant, attempting to kill them. The neighbours of the appellant came to their rescue.

However, as a result of such assault, Yameen died and Mobin and Jamshed sustained serious injuries. The informant-appellant has further stated that there was a pre-existing dispute between the deceased and Bhoora, one among the accused, which was settled by the residents of their locality. However, the accused, in continuation of the said dispute attacked the sons and the husband of the appellant and killed one of her sons, namely, Yameen.

4. Appellant's son, Mobin was medically examined on the date of the incident and the medical report records that that incised wounds were found on his hand, which could be caused by a sharp edged object. The injury report of Jamshed described three injuries, i.e. an incised wound on the scalp, abrasion and contusion on the back and arm.

5. After conducting an investigation, the Police filed a charge-sheet only against three accused, namely, Sullad, Bhoora alias Shadab and Yamin. They were subsequently arrested by the Police. The accused-respondents in the instant appeals are the eight other accused named in the FIR but were not charge-sheeted.

6. The appellant filed an application under section 319 of the Code of Criminal Procedure, 1973 (hereinafter referred to as "CrPC" for the sake of brevity) for summoning the accused-respondents herein who were not charge sheeted by the Police. The accused-respondents were summoned by the Additional Sessions Judge by order dated 21st September, 2019.

7. On the date of commencement of trial before the Additional District and Sessions Judge, Meerut, the accused Sullad, Bhoora alias Shadab and Yamin were presented before the Court by the Police. However, the accused-respondents summoned under section 319 of the CrPC, failed to appear before the trial court. Therefore, the Additional District and Sessions Judge by order dated 15th October, 2019 issued Non-Bailable Warrants against the respondents herein.

8. On the next date fixed for trial, the accused-respondents against whom Non-Bailable Warrants were issued, again failed to appear before the court and it was reported by the Police that the said accused were absconding and were not found even at their residences. The Additional District and Sessions Judge by order dated 4th November, 2019 issued a proclamation under section 82 of the CrPC against the accused-respondents.

9. In the meantime, the accused-respondents summoned by the Sessions Court preferred an application under section 482 of the CrPC before the High Court, praying for an order to quash the order dated 21st September, 2019 whereby the respondents had been summoned to appear before the Additional District and Sessions Judge, Meerut. By order dated 11th November, 2019, the High Court dismissed the said application and granted 30 days' time to the accused to surrender before the Trial Court. The accused-respondents assailed the said order by preferring a Special Leave Petition, being SLP (Crl.) No. 10947/2019, before this Court, which came to be dismissed by order dated 6th December 2019.

10. On 8th January, 2020, the next date on which the sessions trial was presented, the accused-respondents once again failed to appear notwithstanding the direction by this Court to surrender. Hence the Additional Sessions Judge, Meerut, by order dated 8th January, 2020, directed that proceedings for attachment of property of the accused-respondents be initiated under section 83 of the CrPC.

11. The accused-respondents were arrested by the Police on 5th February, 2020 and remained in judicial custody till they were

enlarged on bail by the impugned orders of the High Court dated 7th October, 2020 and 17th November 2020.

12. Accused-respondent Meherban preferred a bail application before the Court of the Additional Sessions Judge, Meerut. The same came to be rejected by order dated 8th July, 2020. Similarly, the bail applications preferred by accused-respondents Jumma, Hakmeen, Yaseen, Arshad and Firoz were also rejected by a separate order dated 8th July, 2020, having regard to the seriousness of the offences alleged against the respondents.

13. Accused-respondent Meherban preferred a bail application before the High Court and the same was allowed by the impugned order dated 7th October 2020 with a direction that the accused be released on bail. Subsequently, the bail application preferred by the accused-respondents Jumma, Hakmeen, Yaseen, Arshad and Firoz was also allowed by the High Court by impugned order dated 17th November 2020 by relying on the order granting bail to co-accused Meherban. Being aggrieved, the appellant has preferred these appeals before this Court.

14. We have heard Sri. Ronak Karanpuria, learned counsel for the appellant, Ms. Kanishka Prasad, learned counsel for

accused- respondents and Sri. R.K. Raizada, learned Senior Counsel appearing for the State of Uttar Pradesh and perused the material on record.

15. The Learned counsel for the appellant contended that the impugned orders of the High Court have been passed without exercising jurisdiction in a judicious manner. In support of this contention, it was submitted that the accused-respondents had failed to appear before the Trial Court notwithstanding multiple directions issued by the Trial Court, High Court and even this Court to that effect. That they were under judicial custody for a period less than nine months and had earlier absconded but have now been granted bail by the High Court contrary to the settled principles of law and the judgments of this Court. That by directing that the accused be released on bail, the High Court has invited the risk of them absconding again and that this would prove to be prejudicial to the investigation and trial.

It was further contended on behalf of the appellant that the possibility of the accused -respondents tampering with evidence and/or influencing witnesses while on bail, cannot be ruled out.

16. Further it was urged that the High Court has not assigned reasons for the grant of bail in the instant cases. That the High

Court could not have granted bail to the accused having scant regard to the gravity of the offences alleged against them. According to the learned counsel for the appellant, the High Court in a very cryptic order *de hors* any reasoning has granted bail to the accused-respondents. It was submitted on behalf of the mother of the deceased, that the instant appeals may be allowed by setting aside the impugned orders of the High Court. In support of his submission, learned counsel for the appellant has relied upon certain judgments of this Court which shall be referred to later.

17. Per contra, Ms. Kanishka Prasad, learned counsel for accused- respondents supported the impugned orders and submitted that the same do not suffer from any infirmity warranting interference by this Court. That the informant-appellant has narrated an untrue version of events in order to falsely implicate the accused. The learned counsel for the respondents has stated that there was a scuffle between the sons and the husband of the appellant, and the accused-respondents on the day of the alleged incident. That four of the accused have also been seriously injured as a result of the attack by appellant's husband and sons. That an FIR in this regard had been lodged against the appellant, her sons and

husband, in connection with which case the said persons have been granted bail by the competent court. That no prima facie case has been made out against the accused and this is evidenced by the fact that they were not charge-sheeted.

It has further been submitted that the accused-respondents have no criminal antecedents and therefore, the High Court acted in accordance with law in enlarging the accused-respondents on bail.

It has also been contended that a court deciding a bail application should avoid elaborate discussion on merits of the case as detailed discussion of facts at a pre-trial stage is bound to prejudice fair trial.

It was submitted that the allegations against the respondent-accused are false and hence the impugned orders of the High Court do not call for any interference in these appeals.

18. Having regard to the contention of Sri. Ronak Karanpuria, learned counsel for the appellant that the impugned orders granting bail to the accused respondents are bereft of any reasoning and they are cryptic and bail has been granted in a casual manner, we extract those portions of the impugned orders dated 7th October, 2020 and 17th November, 2020 passed

by the High Court which provide the "reasoning" of the Court for granting bail, as under:

Impugned Order dated 7th October, 2020

> "Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicant is entitled to be released on bail in this case.
>
> Let the applicant Meharban involved in Case Crime No. 955 of 2018 under sections 147, 148, 452, 324, 307, 302, 504, 506, 34 I.P.C., police station Sardhana, District Meerut be released on bail on his furnishing a personal bond of Rs. One lac with two sureties (out of which one should be of his family member) each in the like amount to the satisfaction of the court concerned with the following conditions.
>
> (i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.
>
> (ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

It is further directed that the identity, status and residence proof of the sureties be verified by the authorities concerned before they are accepted. In case of breach of any of the above conditions, the trial court will be liberty to cancel the bail."

Impugned Order dated 17th November, 2020

"Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicant is entitled to be released on bail in this case.

Let the applicants- Jumma, Hakmeen, Yaseen, Arshad, and Firoz involved in aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicants shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicants fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it

shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The party shall file computer generated copy of such order downloaded from the official website of High Court of Allahabad.

(vi) The computer generated copy of such order shall be self attested by the counsel of the party concerned.

(vii) The concerned/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court of Allahabad and shall make a declaration of such verification in writing.

In view of the extraordinary situation prevailing in the State due to Covid-19, the directions of this Court dated 6.4.2020 passed in Public Interest Litigation No. 564 of 2020 (In re vs. State of U.P.), shall also be complied.

The order read thus:

Looking to impediments in arranging sureties because of lockdown, while invoking powers under Article 226 and 227 of the Constitution of India, we deem it appropriate to order that all the accused-applicants whose bail application came to be allowed on or after 15th March, 2020 but have not been released due to non-availability of sureties as a consequence to lockdown may be released on executing personal bond as ordered by the Court or to the satisfaction of the jail authorities where such accused is imprisoned, provided the accused-applicants undertakes to furnish required sureties within a period of one month from the date of his/her actual release."

19. Before proceeding further, it would be useful to refer to the judgments of this Court in the matter of granting bail to an accused as under:

a) In ***Gudikanti Narasimhulu & Ors. vs. Public Prosecutor, High Court of Andhra Pradesh*** -- **(1978) 1 SCC 240,** Krishna Iyer, J., while elaborating on the content of Article 21 of the Constitution of India in the context of liberty of a person under trial, has laid down the key factors that have to be considered while granting bail, which are extracted as under:

> "7. It is thus obvious that the nature of the charge is the vital factor and the nature of the evidence also is pertinent. The punishment to which the party may be liable, if convicted or conviction is confirmed, also bears upon the issue.
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> 8. Another relevant factor is as to whether the course of justice would be thwarted by him who seeks the benignant jurisdiction of the Court to be freed for the time being.
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> 9. Thus the legal principles and practice validate the Court considering the likelihood of the applicant interfering with witnesses for the prosecution or otherwise polluting the process of justice. It is not only traditional but rational, in this context, to enquire into the antecedents of a man who is applying for bail to find whether he has a bad record – particularly a record which suggests that he is likely to commit serious offences while on bail. In regard to habituals, it is part of criminological history that a thoughtless bail order has enabled the bailee to exploit the opportunity to inflict further about the criminal record of a defendant, is therefore not an exercise in irrelevance."

b) In ***Prahlad Singh Bhati vs. NCT of Delhi & ORS* – (2001) 4 SCC 280** this Court highlighted the aspects which are to be considered by a court while dealing with an application seeking bail. The same may be extracted as follows:

> "The jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behavior, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations. It has also to be kept in mind that for the purposes of granting the bail the Legislature has used the words "reasonable grounds for believing" instead of "the evidence" which means the court dealing with the grant of bail can only satisfy it as to whether there is a genuine case against the accused and that the prosecution will be able to produce prima facie evidence in support of the charge."

c) This Court **in *Ram Govind Upadhyay vs. Sudarshan Singh* – (2002) 3 SCC 598,** speaking through Banerjee, J., emphasized that a court exercising discretion in matters of

bail, has to undertake the same judiciously. This Court highlighted that bail cannot be granted as a matter of course, bereft of cogent reasoning.

d) In ***Kalyan Chandra Sarkar vs. Rajesh Ranjan alias Pappu Yadav & Anr.* – (2004) 7 SCC 528,** this Court held that although it is established that a court considering a bail application cannot undertake a detailed examination of evidence and an elaborate discussion on the merits of the case, the court is required to indicate the prima facie reasons justifying the grant of bail.

e) In **Prasanta *Kumar Sarkar vs. Ashis Chaterjee* -- (2010) 14 SCC 496** this Court observed that where a High Court has granted bail mechanically, the said order would suffer from the vice of non-application of mind, rendering it illegal. This Court has enumerated the circumstances under which an order granting bail may be set aside.

f) Another factor which should guide the courts' decision in deciding a bail application is the period of custody. However, as noted in ***Ash Mohammad vs. Shiv Raj Singh @ Lalla Bahu & Anr. – (2012) 9 SCC 446***, the period of

custody has to be weighed simultaneously with the totality of the circumstances and the criminal antecedents of the accused, if any. Further, the circumstances which may justify the grant of bail are to be considered in the larger context of the societal concern involved in releasing an accused, in juxtaposition to individual liberty of the accused seeking bail.

g) In ***Neeru Yadav vs. State of UP & Anr.*** **– (2016) 15 SCC 422,** after referring to a catena of judgments of this Court on the considerations to be placed at balance while deciding to grant bail, observed through Dipak Misra, J. (as His Lordship then was) in paragraph18 as under:

> 18. Before parting with the case, we may repeat with profit that it is not an appeal for cancellation of bail as the cancellation is not sought because of supervening circumstances. The annulment of the order passed by the High Court is sought as many relevant factors have not been taken into consideration which includes the criminal antecedents of the accused and that makes the order a deviant one. Therefore, the inevitable result is the lancination of the impugned order."

h) In ***Anil Kumar Yadav v. State (NCT of Delhi)*** **– (2018) 12 SCC 129,** this Court, while considering an appeal from an order of cancellation of bail, has spelt out some of the significant considerations of which a court must be

mindful, in deciding whether to grant bail. In doing so, this Court has stated that while it is not possible to prescribe an exhaustive list of considerations which are to guide a court in deciding a bail application, the primary requisite of an order granting bail, is that it should result from judicious exercise of the court's discretion.

i) Recently in ***Bhoopendra Singh vs. State of Rajasthan & Anr.* – 2021 SCC Online SC 1020,** this Court made observations with respect to the exercise of appellate power to determine whether bail has been granted for valid reasons as distinguished from an application for cancellation of bail. i.e. this Court distinguished between setting aside a perverse order granting bail vis-a-vis cancellation of bail on the ground that the accused has misconducted himself or because of some new facts requiring such cancellation. Quoting ***Mahipal vs. Rajesh Kumar* - (2020) 2 SCC 118**, this Court observed as under:

> "16. The considerations that guide the power of an appellate court in assessing the correctness of an order granting bail stand on a different footing from an assessment of an application for the cancellation of bail. The correctness of an order granting bail is tested on the anvil of whether there was an improper or arbitrary exercise of the discretion in the grant of bail. The test is whether the order granting bail is perverse, illegal or unjustified. On the other hand, an application for cancellation of bail is generally examined on the anvil of the existence

> of supervening circumstances or violations of the conditions of bail by a person to whom bail has been granted."

j) The most recent judgment of this Court on the aspect of application of mind and requirement of judicious exercise of discretion in arriving at an order granting bail to the accused is ***Brijmani Devi v. Pappu Kumar and Anr.* – Criminal Appeal No. 1663/2021,** wherein a three Judge Bench of this Court, while setting aside an unreasoned and casual order of the High Court granting bail to the accused, observed as follows:

> "While we are conscious of the fact that liberty of an individual is an invaluable right, at the same time while considering an application for bail Courts cannot lose sight of the serious nature of the accusations against an accused and the facts that have a bearing in the case, particularly, when the accusations may not be false, frivolous or vexatious in nature but are supported by adequate material brought on record so as to enable a Court to arrive at a *prima facie* conclusion. While considering an application for grant of bail a *prima facie* conclusion must be supported by reasons and must be arrived at after having regard to the vital facts of the case brought on record. Due consideration must be given to facts suggestive of the nature of crime, the criminal antecedents of the accused, if any, and the nature of punishment that would follow a conviction vis-à-vis the offence/s alleged against an accused."

20. On the aspect of the duty to accord reasons for a decision arrived at by a court, or for that matter, even a quasi-judicial

authority, it would be useful to refer to a judgment of this Court in ***Kranti Associates Private Limited & Anr. Vs. Masood Ahmed Khan & Ors.* – (2010) 9 SCC 496,** wherein after referring to a number of judgments this Court summarised at paragraph 47 the law on the point. The relevant principles for the purpose of this case are extracted as under:

(a) Insistence on recording of reasons is meant to serve the wider principle of justice that justice must not only be done it must also appear to be done as well.

(b) Recording of reasons also operates as a valid restraint on any possible arbitrary exercise of judicial and quasi-judicial or even administrative power.

(c) Reasons reassure that discretion has been exercised by the decision-maker on relevant grounds and by disregarding extraneous considerations.

(d) Reasons have virtually become as indispensable a component of a decision-making process as observing principles of natural justice by judicial, quasi-judicial and even by administrative bodies.

(e) The ongoing judicial trend in all countries committed to rule of law and constitutional governance is in favour of reasoned decisions based on relevant facts. This is virtually the lifeblood of judicial decision-making justifying the principle that reason is the soul of justice.

(f) Judicial or even quasi-judicial opinions these days can be as different as the judges and authorities who deliver them. All these decisions serve one common purpose which is to demonstrate by reason that the relevant factors have been objectively considered. This is important for sustaining the litigants' faith in the justice delivery system.

(g) Insistence on reason is a requirement for both judicial accountability and transparency.

(h) If a judge or a quasi-judicial authority is not candid enough about his/her decision-making process then it is impossible to know whether the person deciding is faithful to the doctrine of precedent or to principles of incrementalism.

(i) Reasons in support of decisions must be cogent, clear and succinct. A pretence of reasons or "rubber-stamp reasons" is not to be equated with a valid decision-making process.

(j) It cannot be doubted that transparency is the sine qua non of restraint on abuse of judicial powers. Transparency in decision-making not only makes the judges and decision-makers less prone to errors but also makes them subject to broader scrutiny. (See David Shapiro in *Defence of Judicial Candor* [(1987) 100 Harvard Law Review 731-37)

(k) In all common law jurisdictions judgments play a vital role in setting up precedents for the future. Therefore, for development of law, requirement of giving reasons for the decision is of the essence and is virtually a part of "due process".

Though the aforesaid judgment was rendered in the context of a dismissal of a revision petition by a cryptic order by the National Consumer Disputes Redressal Commission, reliance could be placed on the said judgment on the need to give reasons while deciding a matter.

21. The Latin maxim "*cessante ratione legis cessat ipsa lex*" meaning "reason is the soul of the law, and when the reason of

any particular law ceases, so does the law itself", is also apposite.

22. We have extracted the relevant portions of the impugned orders above. At the outset, we find that the extracted portions are the only portions forming part of the "reasoning" of the High court while granting bail. As evident from the judgments of this Court referred to above, a court deciding a bail application cannot grant bail to an accused without having regard to material aspects of the case such as the allegations made against the accused; severity of the punishment if the allegations are proved beyond reasonable doubt and would result in a conviction; reasonable apprehension of the witnesses being influenced by the accused; tampering of the evidence; the frivolity in the case of the prosecution; criminal antecedents of the accused; and a prima facie satisfaction of the Court in support of the charge against the accused.

While we are conscious of the fact that it is not necessary for a Court to give elaborate reasons while granting bail particularly when the case is at the initial stage and the allegations of the offences by the accused may not have been crystalised as such, an order *de hors* any reasoning whatsoever cannot result in grant of bail. If bail is granted in a casual

manner, the prosecution or the informant has a right to assail the order before a higher forum. As noted in ***Gurcharan Singh vs. State (Delhi Admn.)* - 1978 CriLJ 129,** when bail has been granted to an accused, the State may, if new circumstances have arisen following the grant of such bail, approach the High Court seeking cancellation of bail under section 439 (2) of the CrPC. However, if no new circumstances have cropped up since the grant of bail, the State may prefer an appeal against the order granting bail, on the ground that the same is perverse or illegal or has been arrived at by ignoring material aspects which establish a prima-facie case against the accused.

23. In view of the aforesaid discussion, we shall now consider the facts of the present cases. The allegations against accused-respondents as well as the contentions raised at the Bar have been narrated in detail above. On a consideration of the same, the following aspects of the case would emerge:

a) The allegations against the accused-respondents are under 147, 148, 452, 324, 307, 302, 504, 506 with section 34 of the IPC, with regard to murder of the deceased, Yameen and attempt to murder Mobin and Jamshed. Thus the offences alleged against the accused are of grave and heinous nature

inasmuch as there was death of appellant's son and serious injuries caused to her husband and another son.

b) That allegedly the accused-respondents attacked with deadly weapons such as swords and knives.

c) That there was allegedly a pre-existing enmity between the deceased and Bhoora, one of the accused, which apparently had been settled by the local residents.

d) The accused-respondents were summoned by the Trial Court by order dated 21st September, 2019. The accused preferred an application under section 482 CrPC praying for an order quashing the order dated 21st September, 2019. By an order dated 11th November, 2019, the High Court dismissed the said application and granted 30 days' time to the accused to surrender before the Trial Court. The accused-respondents assailed the said order by preferring a Special Leave Petition, being SLP (Crl.) No. 10947/2019, before this Court, which came to be dismissed by order dated 6th December 2019.

e) The accused-respondents resisted arrest for a period of approximately three and a half months as they were absconding. The accused failed to surrender before the Trial Court in gross violation of the directions of the Additional District and Sessions Judge, the High Court and even this

Court. This is a glaring instance of gross violation of the courts' orders and rule of law.

f) The accused-respondents had preferred applications before the Additional District and Sessions Judge which came to be rejected by separate orders dated 8th July, 2020.

g) The chances of the accused absconding are grave having regard to their previous conduct, if they are on bail. This would delay commencement and conclusion of the trial and consequently have an adverse impact on the cause of justice.

h) The propensity of accused-respondents tampering with the evidence and influencing the witnesses is an important factor to be borne in mind in such cases. As a result, the accused being beneficiaries of the same cannot be ruled out.

i) The High Court in the impugned orders has failed to consider the aforestated aspects of the case in the context of the grant of bail and has granted bail to the accused by cryptic orders.

24. Having considered the aforesaid facts of the present cases in light of the judgments cited above, we do not think that these cases are fit cases for grant of bail to the accused-respondents, having regard to the seriousness of the allegations against them as well as the aforesaid reasons.

25. The High Court has lost sight of the aforesaid material aspects of the cases and has, by a very cryptic and casual orders, de hors any coherent reasoning, granted bail to the accused-respondents. We find that the High Court was not right in allowing the applications for bail filed by the accused-respondents. Hence the impugned orders dated 7th May, 2020 and 17th November, 2020 are set aside. The appeals are allowed.

26. The accused-respondents are on bail. Their bail bonds stand cancelled and they are directed to surrender before the concerned jail authorities within a period of two weeks from today.

.....J.
(M.R. SHAH)

.....J.
(B.V. NAGARATHNA)

NEW DELHI;
18TH JANUARY, 2022.