

SUPREME COURT OF INDIA**Bench: Justices C.T. Ravikumar and Rajesh Bindal****Date of Decision: 5th April 2024**

CRIMINAL APPELLATE JURISDICTION

Criminal Appeal No. ... of 2024 (Arising out of S.L.P. (CrI.) No. 8347 OF 2023)

AQEEL AHMAD ...APPELLANT(S)**VERSUS****STATE OF UTTAR PRADESH & ANOTHER ...RESPONDENT(S)**

Criminal Appeal No. ... of 2024 (Arising out of S.L.P. (CrI.) No. 8348 OF 2023)

Criminal Appeal No. ... of 2024 (Arising out of S.L.P. (CrI.) No.OF
2024 @ D.No.53136 of 2023)**Legislation:**

Sections 147, 148, 149, 302, 336, 427 of the Indian Penal Code (IPC)

Subject: The appeals challenge the High Court's orders granting bail to Abdullah, Nasir, and Muzammil, accused of the murder of Khursheed Ahmad.**Headnotes:**

Quashing of Bail Orders – Murder Case – High Court granted bail to the respondents (Abdullah, Nasir, and Muzammil) accused of murder – Appellant challenged the bail orders – Alleged involvement of respondents in the murder

of Khursheed Ahmad – Appellant, an eyewitness, opposed the grant of bail – High Court granted bail without considering relevant material – Post-mortem report indicated severe assault leading to the death of the deceased – Cancellation of bail granted to co-accused Neyaz Ahmad by Supreme Court also relevant – Impugned bail orders set aside – Respondents directed to surrender within 10 days – Liberty granted to move fresh bail application – Observations made for decision purpose only, not on merits of the case.

[Paras 2-10]

Referred Cases: None.

J U D G M E N T

Rajesh Bindal, J.

Leave granted.

2. Challenge in the present appeals is to the orders¹ passed by the High Court². The Respondent No.2 in each of the appeals, namely, Abdullah, Nasir and Muzammil were granted bail by the High Court. The challenge has been made by the informant.

3. The private Respondents herein are accused in FIR No. 0359 dated 15.10.2022 registered at Gambhirpur, Aazamgarh under Sections 147, 148, 149, 302, 336, 427 of IPC, registered on account of murder of Khursheed Ahmad.

3.1 In Criminal Appeal arising out of S.L.P.(Crl.) No.8347 of 2023, initially respondent no.2/Abdullah filed bail application before the Trial Court, which was rejected vide order dated 16.02.2023. Thereafter, he moved the bail application before the High Court, which was allowed vide

¹ Dated 28.03.2023 passed in Crl. M.B.A. No.13988 of 2023, dated 07.04.2023 passed in Crl. M.B.A. No.14388 of 2023 & dated 14.12.2023 passed in Crl. M.B.A. No.53539 of 2023, respectively ² High Court of Judicature at Allahabad

impugned order dated 28.03.2023. The ground raised was that one of the co-accused/Neyaz Ahmad had been enlarged on bail by the High Court vide order dated 22.02.2023².

3.2 In Criminal Appeal arising out of S.L.P.(CrI.) No. 8348 of 2023, the respondent no.2/Nasir filed bail application before the High Court, which was allowed vide impugned order dated 07.04.2023. The ground raised was that one of the co-accused/Abdullah has been enlarged on bail by the High Court vide order dated 28.03.2023³.

3.3 In the Criminal Appeal arising out of S.L.P.(CrI.) Diary No. 53136 of 2023, the respondent no.2/Muzammil filed bail application before the High Court, which was allowed vide impugned order dated 14.12.2023. The ground raised was that general allegations of assaulting the deceased have been made against all the accused persons and no specific role has been assigned to the respondent no.2/Muzammil.

4. Learned counsel for the appellant submitted that when the bail was granted to the respondent-Abdullah he had merely undergone imprisonment for 4 months and 19 days; the respondent-Nasir had undergone imprisonment for 5 months and 11 days; and respondent Muzammil had undergone imprisonment for 1 year and 2 months. They are accused of a serious offence of the murder of Khursheed Ahmad. The High Court did not even refer to the arguments of the respondent no.1/State. Bail was granted to the respondent/Abdullah merely referring to the fact that another accused/Neyaz Ahmad had been granted bail by the High Court. Bail was granted to the respondent/Nasir referring to the order passed in the case

² Passed in Criminal Misc. Bail Application No. 5775 of 2023

³ Subject to challenge in Criminal Appeal arising out of S.L.P.(CrI.)No.8347 of 2023

of Abdullah. In the case of the respondent/Muzammil, the facts were not considered in detail. It was only recorded that he claimed himself to be innocent and ready to abide by any conditions. Despite objection by the State counsel, bail was granted to the said respondents. There is clear involvement of the said respondents in the crime to which the appellant was an eyewitness.

5. The appellant, who is informant in the case registered on account of death of his elder brother was threatened of dire consequences by the accused-Abdullah for which he had filed a complaint dated 16.01.2023 with the Chief Minister of the State. It was also argued that the bail granted to the co-accused/Neyaz Ahmad was cancelled by this Court vide order dated 28.04.2023⁴.

6. On the other hand, learned counsel for the respondents (Abdullah, Nasir and Muzammil) submitted that it is a case in which the appellant had falsely implicated the said respondents. Their further incarceration during the pendency of the matter will amount to injustice to them. There is no error in the orders passed by the High Court and the appeals deserve to be dismissed.

7. After hearing the learned counsel for the parties, in our opinion the orders passed by the High Court deserve to be set aside. The respondents (Abdullah, Nasir and Muzammil) were allegedly involved in the heinous crime of the murder of Khursheed Ahmad on a very paltry issue. The respondent/Abdullah was granted bail by the High Court after custody of 4 months and 19 days merely noticing that another accused/Neyaz Ahmad had been granted bail by the High Court; respondent/Nasir was granted bail by the High Court after custody of 5

⁴ Passed in Criminal Appeal No.1305 of 2023

months and 11 days noticing the fact that another accused/Abdullah had been granted bail; and respondent/Muzammil was granted bail after custody of 1 year and 2 months without considering the relevant material on record. The respondents (Abdullah, Nasir and Muzammil) were specifically named in the FIR. The bail to the said respondents was granted without even noticing the facts in detail. The post-mortem report suggests that the deceased was severely assaulted. His ribs were fractured and the injuries caused to the deceased were sufficient to cause his death.

7.1 The reasons for cancellation of the bail, granted by the High Court to the co-accused Neyaz Ahmad, by this Court as per order dated 28.04.2023 also assume relevance in the context of the challenge made against the impugned orders. *Proprio vigore* such reasons will apply in the case of the orders impugned in the captioned appeals as well.

8. Considering the aforesaid factual matrix, in our opinion, the impugned orders cannot be legally sustained, the same are accordingly set aside. Resultantly, the appeals are allowed.

9. In view of the above, the bail granted to the respondents (Abdullah, Nasir and Muzammil) is cancelled. They are directed to surrender to custody before the concerned Trial Court within 10 days from today.

10. We make it clear that nothing, as noticed above, shall be taken as observation of this Court on merits of the controversy. The arguments have been noticed only for the purpose of decision of the case in hand. The respondents (Abdullah, Nasir and Muzammil) shall be at liberty to move fresh application for bail at any appropriate stage, which shall be considered on its own merits.

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