

IN THE SUPREME COURT OF INDIA
CIVIL APPELLATE JURISDICTION
CRIMINAL APPEAL NO.995 OF 2023
(ARISING FROM SLP (CRIMINAL) NO.4098 OF 2023)

MOHAMMAD ABDULLAH AZAM KHAN

APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

O R D E R

Leave granted.

The impugned order dated 17.03.2023 passed by the High Court, *inter alia*, is as follows:-

"Heard learned counsel for the applicant, learned AGA for the State and perused the record.

Learned AGA prays for and is granted three weeks' time to file counter affidavit.

List immediately thereafter."

We heard the learned senior counsel appearing on behalf of the appellant and learned Additional Solicitor General appearing on behalf of the respondent-State.

Learned Additional Solicitor General submits that counter affidavit has already been filed before the High Court on 29.03.2023.

In view of that fact, we are of the view that as of today there is no impediment for the High Court to hear the Criminal Misc. Application under Section 389 (2) No.2 of 2023.

Learned senior counsel for the appellant would point out that this is a clear case where the appellant has made out a case for grant of stay having regard to the judgment passed by this Court in

Mohd. Abdullah Azam Khan versus Nawab Kazim Ali Khan (Civil Appeal No.104 of 2020).

In the facts of this case, we are of the view that interest of justice requires in this case that the hearing of the application for stay of conviction must be accorded the highest priority and expedition. In such circumstances, we pass the following order.

We direct that the appellant shall be present before the Bench in question on 10th April, 2023. We request the High Court will call the case in question on the said date. The respondent will also fully cooperate for taking up the application and early disposal of the same. We say this for the reason that the appellant brings the development in the form of the Election Commission notifying on the basis of the impugned order to hold election to the constituency of which the appellant has been elected a Member of Legislative Assembly (MLA).

Needless to say that the High Court will bear in mind the need for passing an order at the earliest.

The appeal is disposed of as above.

Pending application(s), if any, stand disposed of.

.....J.
[K. M. JOSEPH]

.....J.
[B. V. NAGARATHNA]

New Delhi
5th April, 2023

ITEM NO.48

COURT NO.3

SECTION II

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 4098/2023

(Arising out of impugned final judgment and order dated 17-03-2023 in CRLMA No. 2/2023 passed by the High Court Of Judicature At Allahabad)

MOHAMMAD ABDULLAH AZAM KHAN

PETITIONER(S)

VERSUS

THE STATE OF UTTAR PRADESH

RESPONDENT(S)

(FOR ADMISSION and I.R. and IA No.64693/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.64696/2023-EXEMPTION FROM FILING O.T. and IA No.64694/2023-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

Date : 05-04-2023 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE K.M. JOSEPH
HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Petitioner(s) Mr. Vivek K. Tankha, Sr. Adv.
Mr. Narendra Hooda, Sr. Adv.
Mr. Sumeer Sodhi, AOR
Mr. Varun Tankha, Adv.
Mr. Gaurav Arora, Adv.
Mr. Inder Dev Singh, Adv.
Mr. Shaurya Lamba, Adv.

For Respondent(s) Mr. K. M. Nataraj, A.S.G.
Mr. Sharan Dev Singh Thakur, A.A.G.
Ms. Ruchira Goel, AOR
Mr. Siddharth Thakur, Adv.
Ms. Keerti Jaya, Adv.
Mr. Adit Jayeshbhai Shah, Adv.
Mr. Nakul Chengappa, Adv.

UPON hearing the counsel the Court made the following
O R D E R

Leave granted.

The appeal is disposed of in terms of the signed order. We direct that the appellant shall be present before the Bench in question on 10th April, 2023. We request the High Court will call the case in question on the said date. The respondent will also fully cooperate for taking up the application and early disposal of the same. We say this for the reason that the appellant brings the development in the form of the Election Commission notifying on the basis of the impugned order to hold election to the constituency of which the appellant has been elected a Member of Legislative Assembly (MLA).

Needless to say that the High Court will bear in mind the need for passing an order at the earliest.

Pending application(s), if any, stand disposed of.

(JAGDISH KUMAR)
COURT MASTER (SH)

(RENU KAPOOR)
ASSISTANT REGISTRAR

(Original signed order is placed on the file)