

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. OF 2022
(Arising out of SLP(CRL.) No. 5315 of 2022)

MOHAMMAD AZAM KHAN

APPELLANT(S)

VERSUS

STATE OF UTTAR PRADESH

RESPONDENT(S)

WITH

CONTEMPT PETITION(C) NO. 387 OF 2022
IN
SLP(CRL.) NO. 5315 OF 2022

O R D E R

Leave granted.

This appeal takes exception to the judgment and order dated 10-05-2022 passed by the High Court of Judicature at Allahabad in Criminal Miscellaneous Bail Application No. 40580/2021.

In this appeal, the observations made by the High Court, which are unrelated to decide the bail application filed by the appellant and the extraneous conditions imposed for grant of interim/regular bail, has been made subject matter of challenge.

At the outset, we must record that neither the State

nor the complainant is in appeal against the order passed in favour of the appellant by the High Court directing his release on interim/regular bail in terms of the impugned order.

This is yet another matter where we find that the High Court has referred to matters which are unrelated to the consideration of prayer for bail in reference to the crime registered against the concerned accused.

The High Court having noted the stand taken by the appellant ought to have dealt with only those aspects of the matter and not ventured into issues which were completely unrelated to the consideration of prayer for bail much less to impose conditions way beyond the need for ensuring the presence of the accused during the investigation or trial of the concerned case.

To observe sobriety and to avoid prolixity, for the nature of order that we propose to pass, it is unnecessary to dilate on all aspects of the matter except to note that after careful consideration of the impugned order and the objectionable conditions therein, we have no hesitation in setting aside that part of the order passed by the High Court while retaining the conditions which are relevant for grant of bail to the

Appellant. The following directions contained in paragraph 39(i) of the impugned order of the High Court stands hereby set aside

The following conditions which are relevant for grant of bail to the appellant are not touched which reads thus:

"(i) The applicant shall surrender his passport on the day of his release before concerned Court and its fate and future would be decided at the end of trial.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of the 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.

(iii) 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 IPC.

(iv) 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., may be issued and if 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 IPC.

(v) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case (2) framing of charge and (3) 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.

(vi) The Trial Court may make all possible efforts/endeavour and try to conclude the trial within a period of one year after the release of the applicant.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail."

The aforesaid conditions shall operate during the bail period and the appellant must strictly adhere to those conditions without exception.

Mr. S.V. Raju, learned Additional Solicitor General was, at pains, to persuade us to impose additional condition that the appellant be directed to refrain from entering into District-Rampur, Uttar Pradesh during the bail period. We will not countenance this plea in the appeal filed by the accused. In other words, the conditions reproduced above alone will apply as bail conditions and operate until further orders as may be passed in due course by the Trial Court or the High Court, as and when occasion arises, during the course of trial or at the conclusion of the trial, as the case may be.

We also place on record that the authorities acting upon the observations made in the impugned judgment have

initiated action, including sealing of certain premises as noted in the communication dated 18.05.2022 bearing No. 1309/ST issued under the signature of Joint Magistrate/Deputy District Magistrate, Sadar, Rampur. All actions taken by the revenue authorities or any other State authorities in reference to the observation made in the bail order dated 10.05.2022, be deemed to have been effaced from the concerned record.

This direction, however, will not preclude the competent authority to initiate action independent of the observations in the impugned judgment, on the basis of tangible material and information/documents or evidence available with them to initiate action under the concerned Legislation, including in respect of the administration of and/or management of property of Moulana Mohamed Ali Jouhar University. Those proceedings will have to proceed independently uninfluenced by the observations made in the impugned judgment.

All contentions available to both sides in relation to such proceedings are left open.

In terms of this order, we direct the Joint Magistrate/Deputy District Magistrate to take immediate steps to unseal the property referred to in the

communication dated 18.05.2022.

In light of the aforesaid order, the appeal stands disposed of as also the interim application(s) and the contempt petition.

Pending application(s) shall stand disposed of.

.....J
(A.M. KHANWILKAR)

.....J
(J.B. PARDIWALA)

New Delhi
July 22, 2022

ITEM NO.20+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 (Crl.) No(s). 5315/2022

(Arising out of impugned final judgment and order dated 10-05-2022 in CRMB No. 40580/2021 passed by the High Court Of Judicature At Allahabad)

MOHAMMAD AZAM KHAN

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(FOR ADMISSION and I.R. and IA No.80572/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.80571/2022-EXEMPTION FROM FILING O.T. and IA No.80576/2022-PERMISSION TO FILE ADDITIONAL DOCUMENTS/FACTS/ANNEXURES)

WITH

CONMT.PET.(C) No. 387/2022 in SLP(Crl) No. 5315/2022

(FOR ADMISSION and IA No.99273/2022-EXEMPTION FROM FILING O.T. and IA No.99284/2022-APPLICATION FOR EXEMPTION FROM FILING THE RESIDENTIAL ADDRESS OF RESPONDENT/CONTEMNOR WITH AFFIDAVIT)

Date : 22-07-2022 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE A.M. KHANWILKAR

HON'BLE MR. JUSTICE J.B. PARDIWALA

For Petitioner(s)

Mr. Kapil Sibal, Sr.Adv.
Mr. Lzafeer Ahmad B. F., AOR
Mr. Nizam Pasha, Adv.
Mr. Aditya S., Adv.

For Respondent(s)

Mr. S.V. Raju Ld. ASG (Sr. Adv.)
Smt. Garima Parshad AAG (Sr. Adv.)
Mr. Rajiv Kumar Dubey, Adv.
Mrs. Priyanka Singh, Adv.
Mr. Ajay Vikram Singh, AOR

UPON hearing the counsel the Court made the following

O R D E R

Leave granted.

This appeal and contempt petition stand(s) disposed of in terms of the signed order.

Pending applications, if any, stand disposed of.

(DEEPAK SINGH)
COURT MASTER (SH)

(VIDYA NEGI)
ASSISTANT REGISTRAR

[Signed order is placed on the file]