



ITEM NO.20

COURT NO.15
S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

SECTION II

Criminal Appeal No(s). 1527-1531/2023

THE STATE OF RAJASTHAN

Appellant(s)

VERSUS

MOHD. SAIF @ KARIAN

Respondent(s)

(FOR ADMISSION and I.R. and IA No.87154/2023-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.87156/2023-EXEMPTION FROM FILING O.T. and IA No.87158/2023-PERMISSION TO FILE LENGTHY LIST OF DATES)

Date : 17-05-2023 These matters were called on for hearing today.

CORAM : HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE RAJESH BINDAL

For Appellant(s) Mr. R. Venkataramani, Attorney General for India
Dr. Manish Singhvi, Sr. Adv.
Ms. Shraddha Deshmukh, Adv.
Mr. Sandeep Kumar Jha, AOR
Ms. Shubhangi Agarwal, Adv.
Mr. Bilal Ikram, Adv.
Mr. Utkarsh Kokcha, Adv.

For Respondent(s) Ms. Rebecca John, Sr. Adv.
Ms. Seema Misra, Adv.
Mr. Harsh Bora, Adv.
Ms. Deeksha Dwivedi, Adv.
Ms. Anushka Baruah, Adv.
Mr. N. Sai Vinod, AOR

Mr. Siddharth Luthra, Sr. Adv.
Mr. Siddharth Aggarwal, Sr. Adv.
Mr. Shri Singh, Adv.
Mr. Siddharth Satija, Adv.
Mr. Rajat Kumar, Adv.
Tusharika Mattoo, Adv.
Ms. Rajni Gupta, Adv.
Ms. Zehra Khan, AOR
Mr. Sarthak Karol, Adv.
Mr. Aakash Jha, Adv.
Ms. Ipsita Agarwal, Adv.
Mr. Akash Sachan, Adv.
Ms. Sowjanya Shankaran, Adv.
Mr. Vishwajeet Singh, Adv.
Ms. Arshiya Ghose, Adv.
Mr. Sushrut Meena, Adv.

Mr. Gaurav Agrawal, Adv.
Mr. Aarif Ali, Adv.
Mr. Shahid Nadeem, Adv.
Mr. Pankaj Tiwari, Adv.
Mr. Mujahid Ahmad, Adv.
Ms. Preeti Chauhan, Adv.
Mr. Mohit Yadav, Adv.
Mr. Chand Qureshi, AOR

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

To be heard along with Criminal Appeal Nos. 1522-1526/2023.

Out of the respondent(s)-accused, today, Mohammad Salman S/o Sakil Ahamad and Mohd. Sarwar Azmi S/o Mohd. Haneef are represented by Mr. Siddharth Luthra, Mr. Siddharth Aggarwal and Ms. Rebecca John, learned Senior Counsel, in this case as well as in the connected Criminal Appeals. Therefore, service of notice to them is dispensed with as the respective Advocates-on-Record take notice on their behalf. However, Saifurrehman Ansari S/o Abdul Rehman Ansari and Mohd. Saif @ Karian S/o Shadab Ahmed are not represented. Therefore, the State must ensure that notice is served to them immediately.

This is an Appeal against acquittal. There is a prayer for stay. In support of the prayer for stay, Mr. R. Venkataramani, the learned Attorney General, by placing reliance on the decision of this Court in the case of State of U.P. vs. Poosu and Another, (1976) 3 SCC 1 and by seeking exercise of the power under Section 390 of the Cr.P.C., prays for an order of arrest of the aforesaid four acquitted accused, namely, Mohammad Salman S/o Sakil Ahamad and Mohd. Sarwar Azmi S/o Mohd. Haneef Saifurrehman Ansari S/o Abdul Rehman Ansari and Mohd. Saif @ Karian S/o Shadab Ahmed and

continuing their detention, pending final disposal of the Appeals.

It is well settled that the presumption of innocence is further strengthened by an order of acquittal. Therefore, before we examine the drastic prayer made by the learned Attorney General, we will have to examine the evidence and other material on record before the High Court and will have to hear the accused.

We, therefore, direct that record of the trial Court be forthwith called for and soft copies be supplied to the parties. The State Government will ensure that within 8 weeks from today, a complete set of paper-book is filed on record on the basis of the soft copies supplied by the Court. While filing the paper-book, the State will ensure that the translation of depositions and other documents in English is incorporated in the paper-book.

Our attention is invited to the direction issued under the impugned order and, in particular, paragraph 94 thereof, which reads thus:-

"94. Accused appellants-Mohammad Saif, Mohammad Saifurrehman, Mohammad Sarvar Azmi and Mohammad Salman are directed to furnish personal bond in the sum of Rs.5,00,000/- and a surety bond in the like amount in accordance with Section 437-A of Cr.P.C. before the Registrar (Judicial) within two weeks from the date of release to the effect that in the event of filing of Special Leave Petition against this judgment or on grant of leave, Accused Appellants - Mohammad Saif, Mohammad Saifurrehman, Mohammad Sarvar Azmi and Mohammad Salman on receipt of notice thereof, shall appear before the Hon'ble Apex Court. The bail bond will be effective for a period of six months."

We direct the Jail Authorities to ensure that, if the said four acquitted accused are not required to be detained further in connection with any other case, they shall be released on the basis

of the impugned judgment of acquittal. Before they are released, strict compliance with the directions contained in paragraph 94 of the impugned judgment by the accused shall be ensured by the Jail Authorities.

In addition to that, we direct that, as and if the said accused are released after making compliance with the directions contained in paragraph 94, they shall report to the Office of the Anti Terrorist Squad (ATS), Ghat Gali, Near Wireless Police Line, Agra Road, Jaipur on every day between 10 a.m. to 12 noon.

If the aforesaid four accused are holding passports, they shall ensure that the passports are deposited with the Jail Authorities before they are actually released from the Jail. If, according to any of the accused, they do not have the passport, the Jail Authorities will take their affidavits in those terms before they are released. Needless to add that none of them shall be entitled to travel abroad without prior permission of this Court.

Learned Attorney General also invited our attention to the observations made in para 95 of the judgment and direction(s) issued in para 8 of the second part of the judgment.

As we have admitted the Appeals for final hearing, we direct that the direction(s) contained in para 8 of the second part of the impugned judgment directing initiation of Enquiry/Disciplinary Proceedings will remain stayed.

We direct that the Appeals shall be listed before the appropriate Bench on the regular day i.e on 09.08.2023 as a first item for hearing.

In the event, the Appeals cannot be heard on that day for any reason, this Court will consider the prayer made by the learned Attorney General for issuing direction to arrest the aforesaid four accused and to continue their custody, till the disposal of the Appeals.

In the event, the aforesaid four accused misuse the facility of bail or fail to report to the Office of the Anti Terrorist Squad (ATS), Ghat Gali, Near Wireless Police Line, Agra Road, Jaipur, it will always be open for the State of Rajasthan to apply to this Court for appropriate orders.

We direct the Registrar (Judicial) to place this order immediately before Hon'ble the Chief Justice of India for constituting an appropriate Bench. The reason being that the capital punishment was granted by the trial Court to one of the accused.

(R. NATARAJAN)
ASTT. REGISTRAR-cum-PS

(AVGV RAMU)
COURT MASTER (NSH)