

**CRIMINAL APPEAL NO.1221/2019
(Petition for Special Leave to Appeal (CrI.) No.2232/2018)**

SHARAD

Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

O R D E R

Leave granted.

We have heard the learned counsel appearing for the appellant - accused, learned counsel appearing for Respondent No.1 - State of Maharashtra and learned counsel appearing for Respondent No.2 - complainant.

Having carefully scrutinized the material available on record, we are of the considered view that the High Court has passed the impugned order, without application of its mind, by revoking the bail granted to the appellant by the Additional Sessions Judge-3, Nagpur in Misc. Criminal Application No. 1847 of 2017, on the ground that the application was not maintainable before the Trial Court as the appellant previously approached the High Court for bail and subsequently withdrew the bail application.

It may be mentioned in this connection that there is no provision in the Code of Criminal Procedure, 1973 or law laid down by this Court that once an accused has withdrawn his bail application before the High Court, he cannot file a subsequent bail application before the Sessions Court and that his subsequent bail application would lie before the High Court only.

Thus, the impugned order of the High Court is not sustainable in the eyes of law and deserves to be set aside.

In view of the above, we set aside the impugned order of the High Court revoking the bail granted to the appellant by the Sessions Court. Order dated 20.9.2017 passed by the Additional Sessions Judge-3, Nagpur in Misc. Criminal Application No. 1847 of 2017 granting bail to the appellant is hereby restored.

Needless to state, if the appellant is in jail, he shall be released forthwith if he is not required in any other case.

The appeal is allowed in the afore-stated terms.

.....J
(N.V. RAMANA)

.....J
(AJAY RASTOGI)

NEW DELHI;
8TH AUGUST, 2019.

ITEM NO.1

COURT NO.3

SECTION II-A

S U P R E M E C O U R T O F I N D I A
RECORD OF PROCEEDINGS

Petition for Special Leave to Appeal (Crl.) No.2232/2018

(Arising out of impugned final judgment and order dated 23-02-2018 in CRLA No. 57/2017 passed by the High Court of Judicature at Bombay at Nagpur)

SHARAD

Petitioner(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR.

Respondent(s)

Date : 08-08-2019 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA
HON'BLE MR. JUSTICE AJAY RASTOGI

For Petitioner(s)

Mr. Shekhar Naphade, Sr. Adv.
Mr. Gagan Sanghi, Adv.
Mr. Rameshwar Prasad Goyal, AOR

For Respondent(s)

Mr. Nishant Ramakantrao Katneshwarkar, AOR
Mr. Anoop Kandari, Adv.

Mr. J.M. Gandhi, Adv.
Mr. Dharmendra Kumar Sinha, AOR
Mr. B.A. Sahanari, Adv.
Mr. Raju Sonkar, Adv.

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

Leave granted.

The appeal is allowed in terms of the signed order.

(VISHAL ANAND)
COURT MASTER (SH)

(RAJ RANI NEGI)
ASSISTANT REGISTRAR

(Signed Order is placed on the file)