

ITEM NO.31 Court 1 (Video Conferencing) 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 for Special Leave to Appeal (Crl.) No.5845/2021

(Arising out of impugned final judgment and order dated 27-02-2018 in CRLA No. 652/2016 passed by the High Court of Judicature at Allahabad)

PINTU SAINI Petitioner(s)

VERSUS

STATE OF U.P. Respondent(s)

Date : 01-10-2021 This petition was called on for hearing today.

CORAM :

HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE SURYA KANT
HON'BLE MS. JUSTICE HIMA KOHLI

For Petitioner(s)

Mr. Venkita Subramoniam T.R, AOR
Mr. Rahat Bansal, Adv.
Mr. Sushmit Chauhan, Adv.
Mr. Likhi Chand Bonsle, Adv.

For Respondent(s)

Ms. Garima Prashad, AAG, UP
Mr. Sarvesh Singh Baghel, AOR
Mr. Shantanu Singh, Adv.

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

The Court is convened through Video Conferencing.

This Court vide Order dated 29-9-2021 directed the Home Secretary to the State of U.P. to file an affidavit on or before 1-10-2021 indicating therein (i) as to how many times the Criminal Appeal filed by the petitioner is listed, (ii) as to how many times learned counsel who appeared for the petitioner before the High Court has taken adjournments, (iii) as to whether the Criminal Appeal filed by the petitioner before the High Court has reached

for hearing or not and (iv) whether the Paper Books in the said matter have been prepared or not.

In compliance with the Order passed by this Court on 29-9-2021, Mr. Awanish Kumar Awasthi, presently posted as Additional Chief Secretary, Home Department, Government of Uttar Pradesh, Lucknow has filed his affidavit which is reproduced below:-

1. That the deponent is presently posted as Additional Chief Secretary, Home Department in the Government of Uttar Pradesh. At the outset, the deponent submits that the present affidavit is being filed by the deponent on the basis of information received from the concerned departments in the State Government, which have been consolidated for the convenience of this Hon'ble Court;

2. That this Affidavit is being filed in compliance of this Hon'ble Court's order dated 29.09.2021;

3. That the Petitioner Pintu Saini was convicted under Sections 498-A, 304-B I.P.C. and Section 3, 4 Dowry Prohibition Act vide order dated 30.01.2016 by the Hon'ble Court of Additional District & Sessions Judge, Hapur in Sessions Trial No. 621 of 2012. Aggrieved by the conviction, the Petitioner preferred Criminal Appeal No. 652/2016 on 11.02.2016 before the Hon'ble High Court of Judicature at Allahabad;

4. That the Petitioner's first bail application praying for bail during the pendency of his criminal appeal was rejected vide order dated 27.02.2018, and a subsequent bail application filed by the Petitioner is pending adjudication before the Hon'ble High Court;

5. That on the basis of information received from the concerned department in the State Government and also from the office of the Government Advocate, Hon'ble High Court and from the Registry of the Hon'ble High Court, the information on queries raised by this Hon'ble Court has been given;

6. That as to how many times the Criminal Appeal filed by the petitioner is listed - it is submitted that as per the Status on the website of Hon'ble High Court, the subject criminal appeal was listed 16 times, out of which 14 times the case was taken up wherein on the first date i.e. 15.02.2016 the appeal was admitted and thereafter appeal

with first bail application was listed on three dates and on the fourth date, i.e. 27.02.2018, the first bail application was dismissed. Thereafter, the Petitioner filed second bail application No.11/2019 after which the appeal has been listed on 8 dates for disposal of the second bail application. Status report available from the official portal of Hon'ble High Court of Criminal Appeal No. 652/2016.

7. That as to how many times learned counsel who appeared for the petitioner before the High Court has taken adjournments, it is submitted that a perusal of the orders passed by the Hon'ble High Court, it is revealed that on 5 times adjournment has been sought on behalf of the petitioner, on 2 occasions passover was sought on behalf of the petitioner, once none appeared for the petitioner as well as the complainant, and once adjournment was sought on behalf of the State and once no order was passed and as to whether the Criminal Appeal filed by the petitioner before the High Court has reached for hearing or not, it is submitted that as per the information provided by the Government Advocate, High Court, and the Registry of the Hon'ble High Court the subject criminal appeal is being listed for disposal/hearing of second bail application;

8. That as to whether the Paper Book in the said matter have been prepared or not, it is submitted that as per the information provided by the Government Advocate, High Court, and the Registry of the Hon'ble High Court, paper-books are being prepared after the orders passed by the Hon'ble Court, and since no order has been passed by the Hon'ble High Court for preparation of paper-book in the subject appeal, paper book has not been prepared, however trial court record has been received at the Hon'ble High Court.

9. That for seeking proper information in this connection, the deponent had also addressed a letter dated 29.09.2021 requesting the Registrar General of the Hon'ble High Court for assistance in providing information sought by this Hon'ble Court from the original records of the criminal appeal in furtherance of which Letter dated 30.09.2021 has been received from the Registry of Hon'ble High Court of Judicature at Allahabad.

We have perused the said affidavit.

Learned counsel appearing for the petitioner prays for bail on the ground that his client is in jail for more than 9 years and 9

months and his Criminal Appeal, pending adjudication before the High Court of Judicature at Allahabad, is not likely to be taken up for final disposal very soon.

Per Contra, Learned Additional Advocate General appearing for the State of U.P. vehemently opposed the bail application of the petitioner.

Taking into consideration the fact the the petitioner is reported to be in jail for more than 9 years and 9 months, his Criminal Appeal, pending adjudication before the High Court of Judicature at Allahabad, is not likely to be taken up for final disposal very soon, which fact could not be controverted by learned Additional Advocate General appearing for the State, we are inclined to grant bail to him.

The petitioner is, therefore, directed to be released on bail, subject to such terms and conditions which the concerned Trial Court shall deem fit and appropriate to impose upon him.

The Special Leave Petition is disposed of in the afore-stated terms.

(VISHAL ANAND)
ASTT. REGISTRAR-cum-PS

(R.S. NARAYANAN)
COURT MASTER (NSH)