

IMRAN ALI
v.
HABIBULLAH AND ANR.

MARCH 19, 2007

[B.P. SINGH AND H.S. BEDI, JJ.]

Bail—Order—Recording of reasons—Purpose and extent of—Held, recording of reasons, whenever necessary, is only to indicate the considerations that may have weighed with Court in granting bail and Court must do so in a manner that may not prejudice case of parties—In instant case, High Court while recording a very detailed reasoned order erred in virtually holding that prosecution case has no merit—Such findings ought to be eschewed when Sessions Trial/appeal is taken up for hearing—However, order granting bail not upset.

CRIMINAL APPELLATE JURISDICTION : Petition For Special Leave to Appeal (Crl) No. 3986 of 2006.

From the final Judgment and Order dated 24.04.2006 of the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow in Criminal Appeal No. 1447 of 2005.

WITH

S.L.P. (Crl) No. 3987, 3988 of 2006.

Samir Ali Khan, Rishad Murtaza, Amit Kumar and Gaurav Dhama for the Appellant.

U.U. Lalit, Kunwar C.M. Khan, Imran K. Burney, Zafar Khan and E.C. Vidya Sagar for the Respondents.

The Order of the Court was delivered by

ORDER

1. We have heard counsel for the Parties.

A 2. It is no doubt true that the High Court felt persuaded to grant bail to the respondents in the pending appeal before it. The High Court, however, went on to record a very detailed reasoned order, virtually holding that the prosecution case has no merit. Such observations either for or against the prosecution, made in orders disposing of bail applications may prejudicially affect the interest of the parties because in case a trial is pending before the Sessions Court, the Trial Judge may consider itself bound by the observations made in such an order. In any event such observations are bound to influence its mind. It is no doubt true that in appropriate cases particularly in serious matters, the High Court may record reasons, but the High Court while recording reasons must take care to safeguard against prejudicing the case of the parties. The recording of reasons, wherever necessary, is only to indicate the considerations that may have weighed with the Court in passing the order and the Court must do so in a manner that may not prejudice the case of the parties. The trend recently noticed, to virtually write a judgment while disposing of an application for grant of bail must be discouraged.

D 3. While not upsetting the order passed by the High Courts, we observe that the findings recorded in the Order granting bail ought to be eschewed when the appeal itself is taken up for hearing.

4. The Special leave Petitions are disposed of accordingly.

E R.P.

SLP disposed of.