

AKHILESH KUMAR SINGH

v.

STATE OF U.P. TH. DGC(CRL.) & ANR.  
(Criminal Appeal No. 399 of 2008)

FEBRUARY 27, 2008

[K.G. BALAKRISHNAN C.J., R.V. RAVEENDRAN  
AND D.K. JAIN, JJ.]

*Bail – Sessions case pending trial – Rejection of first bail application – Grant of second bail application – Set aside by High Court – Challenge to – Held: In case of delay in trial of the case, accused would be at liberty to file bail application and Sessions Court would consider the same on merits.*

A case was registered against the appellant for the offences u/ss 302, 395 r/w s. 120-B IPC and are pending trial. Appellant's first bail application was rejected and the second bail application was allowed. In the criminal miscellaneous case, High Court set aside the order passed by the Sessions Judge granting bail. Hence the present appeal.

Disposing of the appeal, the Court

HELD: When the matter was pending before this Court, the case was adjourned repeatedly with the expectation that the important witnesses would be examined by the prosecution and the trial would be completed at an early date. The trial is being continued and most of the witnesses must have been examined by this time. If the trial is not already over, the Sessions Judge is directed to complete the same within three months and, if for the reason, except the non-cooperation of the accused, the trial is delayed beyond three months, the appellant would be at liberty to move the Sessions Court

A for bail and the Sessions Court would consider the same on merits. (Para 6) [547-F, G; 548-A]

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 399 of 2008.

B From the final Judgment and order dated 20/12/2005 of the High Court of Judicature at Allahabad in Crl. Misc. Case No. 2198/2002.

C Ram Jethmalani, Lataa Krishnamurthy, S. Balaji, Sudhanshu Nath Singh, Madhusmita Bora, S.R. Sharma and Saurabh for the Appellant.

Dr. R.G. Padia, Ranjit Kumar, Irshad Ahmad, R.K.S. Yadav, Sushil Mishra, Lalit Srivastava and K.K. Mohan for the Respondents.

D The Judgment of the Court was delivered by

**K.G. BALAKRISHNAN, CJI.** (1) Leave granted.

(2) The appellant is an accused in Crime No. 311/2002 registered for the offences under Sections 302 and 395 read with Section 120-B of the Indian Penal Code (IPC). The appellant moved bail application before the Sessions Court and the same was rejected on 18.10.2002. Thereafter, the appellant moved another bail application on 29.10.2002 and the same was allowed on 7.11.2002. Aggrieved by the same, the second respondent herein filed a criminal miscellaneous case before the High Court of Allahabad, Lucknow Bench. By the impugned order, the High Court set aside the order passed by the Sessions Judge granting bail to the appellant. The main reason given by the learned Single Judge of the High Court in cancelling the bail granted to the appellant is that the first bail application was rejected on valid grounds and just 19 days after the rejection of the first bail application, the appellant herein had no ground to urge for bail as there was no change in circumstances. It was also pointed out that whatever grounds urged in the second bail

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application could have been stated in the first bail application and the reasons given for grant of bail by the Sessions Judge in the second bail application were in utter violation of the settled principles of judicial propriety.

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(3) We have heard the learned counsel appearing for the parties.

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(4) A sessions case is pending trial against the appellant. There was an allegation that the appellant herein attempted to cause death of one person who was arrayed as a prosecution witness and a case was registered against the appellant. It is also pointed out that the appellant herein made an attempt on the life of brother of the second respondent herein and for that also a case had been registered against the appellant under Section 307 IPC. It is further pointed out that a series of crimes have been registered against the appellant.

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(5) Shri Ram Jethmalani, learned Senior Counsel appearing for the appellant, pointed out that all these cases have been registered on account of political rivalry and many of such cases were closed by the investigating agency when they were found baseless. The list of cases has been furnished by the learned counsel appearing for the respondents. The learned Senior Counsel appearing for the appellant also pointed out that even against the second respondent several cases are pending and he had no right to move for cancellation of the bail granted to the appellant.

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(6) When the matter was pending before us, we repeatedly adjourned the case with the expectation that the important witnesses would be examined by the prosecution and the trial would be completed at an early date. The trial is being continued and most of the witnesses must have been examined by this time. If the trial is not already over, the Sessions Judge, Rai Bareilly is directed to complete the same within a period of three months and, if for any reason, except the non-cooperation of the accused, the trial is delayed beyond three months, the

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A appellant would be at liberty to move the Sessions Court for bail and, without being influenced by the observations made by the High Court in the impugned order, the same would be considered by the Sessions Judge on merits and appropriate order shall be passed.

B (7) The Appeal is disposed of accordingly.

N.J.

Appeal disposed of.