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DELHI POLICE ACADEMY



SUPREME COURT OF INDIA

X .....APPELLANT(S)
VERSUS
THE STATE OF UTTAR PRADESH & ANR....RESPONDENT(S)

Mandatory To Hear Informant/Victim Before Granting Bail In Rape Offences, SC/ST Act Cases: Supreme Court

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CRIMINAL APPEAL NO.5385 OF 2024 (Arising out of SLP(Crl.) No.5027 of 2024)
Date of Judgement: 13/12/2024



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Facts of the Case:

The appellant (X) filed two appeals against orders passed by the High Court of Allahabad, which granted bail to the accused respondents (Khargesh @ Golu and Karan) in connection with FIR No. 599 of 2021. The charges involved serious offenses including Sections 323, 363, 376DA, 506, 392 of IPC, Sections 5(g) and 6 of POCSO Act, and Sections 3(2) and 5(A) of the SC/ST Act.

The appellant, a victim in the case, raised the issue that they were not given an opportunity to be heard and were not made a party in the bail proceedings.

Issues Advanced:

Is it imperative to notify and provide the victim an opportunity to be heard before granting bail in cases of rape and offences under the SC/ST Act?

Judgement:

The Supreme Court granted leave to the appellant and heard both appeals together.

In both the Appeals, the learned counsel for the appellant, who is the victim, has raised a substantial question of law, as to whether the appellant should

have been given an opportunity of hearing and should have been made party in the bail proceedings filed by the concerned respondents before the High Court.

The Hon'ble Supreme Court observed that in the instant case, the concerned respondents – accused had not impleaded the present appellant as the party – respondent in the bail proceedings filed by them before the High Court, and the concerned Public Prosecutor also had not informed the appellant – victim about the said proceedings.

The Court found that the mandatory provisions under Section 439(1A) of Cr.P.C. and Section 15A(3) of the SC/ST Act were violated, as the appellant was not informed about the bail proceedings and was not made a party in the case.
The High Court's decision to grant bail was questioned for not considering these statutory requirements, and the Court noted that the bail was granted in a cursory manner without proper reasoning, despite the seriousness of the offenses.
The relevant paras of the order are reproduced as under:

" Para 4: It is pertinent to note that **as per Section 439(1A) of Cr.P.C., the presence of the informant or any person authorised by him or her is obligatory at the time of hearing of the application for bail to the person under sub-section (3) of Section 376 or Section 376AB or Section 376DA or Section 376DB of the IPC. Similarly, it is also mandatory on the part of the Special Public Prosecutor of the State Government to inform the victim about the court proceedings, including bail proceedings as contemplated in sub-section (3) of Section 15A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.**

Para 5: In the instant case**, there is gross violation of the said statutory provisions contained in Section 439(1A) of Cr.P.C. and Section 15A(3) of the SC/ST Act, at the instance of the respondents.** The High Court also in

the impugned order has not considered the said mandatory requirement of both the Acts and granted bail to the concerned respondents in a very casual and cursory manner and without assigning any cogent reasons, though the concerned respondents are prima facie involved in a very serious offences.“

With the above observations, the Hon’ble Supreme Court set aside the High Court's orders and directed the respondents (Khargesh @ Golu and Karan) to surrender before the Trial Court by 30th December 2024.

Both appeals were allowed, and any pending applications were disposed of.