

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION



CRIMINAL APPEAL NO. 1207 OF 2023
(Arising out of SLP (Cr1.)No. 5125 of 2023)
(Arising out of SLP (Cr1.)Diary No. 15706 of 2021)

GOKULRAM VISHNOI AND ANR.

Appellant(s)

VERSUS

STATE OF RAJASTHAN

Respondent(s)

O R D E R

Leave granted.

By the impugned order, the application filed by the two appellants under Section 167(2) of the Code of Criminal Procedure, 1973, seeking default bail has been dismissed.

The short point which forms the premise of the order of the High Court is that the date on which the order of remand is passed is to be excluded in counting the period for the purpose of grant of default bail.

This issue was referred to the Bench of three learned Judges and the decision has been pronounced on 27th March, 2023, in *Enforcement Directorate, Government of India v. Kapil Wadhawan & Anr. Etc.* (Criminal Appeal Nos. 701-702 of 2020). According to the same, the date of the order of remand is not to be excluded. If that is so, the plank of reasoning in the impugned order will fall to the ground and the impugned order must be set aside.

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Nidhi Ahuja
Date: 2023.04.21
17:43:36 IST
Reason:

After having heard the learned counsel for the appellants and the learned Additional Advocate General, we

are of the view that the appeal must be allowed. The appeal is allowed. The impugned order is set aside. The application filed under Section 167(2) Cr.P.C. will stand allowed. The applicants (appellants) will stand released on default bail on the terms and conditions as may be imposed by the trial Court.

Pending applications stand disposed of.

....., J.
[K.M. JOSEPH]

....., J.
[B.V. NAGARATHNA]

New Delhi;
April 21, 2023.

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

Criminal Appeal Nos. 701-702/2020

ENFORCEMENT DIRECTORATE GOVERNMENT OF INDIA

Appellant(s)

VERSUS

KAPIL WADHAWAN & ANR.

Respondent(s)

[ONLY IA No. 68904/2023 AND DIARY NO. 15706/2021 (FOR DIRECTION)
ARE LISTED UNDER THIS ITEM.]

(IA No. 68904/2023 - GRANT OF BAIL)

WITH

Cr1.A. No. 1207/2023 (II)

(Arising out of SLP (C)No.

(Arising out of Diary No. 15706/2021)

(FOR ADMISSION and I.R. and IA No.95771/2021-EXEMPTION FROM FILING
C/C OF THE IMPUGNED JUDGMENT and IA No.95774/2021-EXEMPTION FROM
FILING O.T. and IA No.95770/2021-EXEMPTION FROM FILING SEPARATE
CERTIFICATE OF SURRENDER)

Date : 21-04-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE K.M. JOSEPH

HON'BLE MRS. JUSTICE B.V. NAGARATHNA

For Appellant(s)

Mr. Tushar Mehta, Solicitor General

Mr. Sanjay Jain, A.S.G.

Mr. S.v. Raju, A.S.G.

Mr. Mukesh Kumar Maroria, AOR

Mr. Zoheb Hussain, Adv.

Mr. Rajan Kumar Choursia, Adv.

Mr. Annam Venkatesh, Adv.

Ms. Sairica Raju, Adv.

Mr. Arkaj Kumar, Adv.

Mr. Kanu Agarwal, Adv.

Mr. Nishant Bishnoi, Adv.

Ms. Srishti Prabhakar, Adv.

Mr. Saurabh Ajay Gupta, AOR

For Respondent(s)

Mr. Mukul Rohatgi, Sr. Adv.

Mr. Mahesh Agarwal, Adv.

Mr. Ankur Saigal, Adv.
Mr. Rohan Dakshini, Adv.
Mr. Shubham Kulshreshtha, Adv.
Mr. Kaustubh Singh, Adv.
Ms. Kamakshi Sehgal, Adv.
Ms. Pooja Kothari, Adv.
Ms. Urvi Gupte, Adv.
Mr. E. C. Agrawala, AOR

Mr. Sandeep Kumar Jha, AOR

Mr. Shrirang B. Varma, Adv.
Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.

Mr. Sarad Kumar Singhania, AOR
Mr. Amit K. Nain, AOR

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

I.A. No. 74084/2023
Criminal Appeal Nos. 701-702/2020

A clarification is sought of the judgment passed by a Bench of three Judges of which Hon'ble Mr. Justice Hrishikesh Roy is also a member. Therefore, we consider it appropriate that a Bench of the same three Judges may be constituted which has rendered the judgment of which clarification is sought in para 51.

The matter may be listed on 24th April, 2023, after obtaining orders of Hon'ble the Chief Justice of India.

I.A. No. 68904/2023 in
Criminal Appeal Nos. 701-702/2020

List on 28th April, 2023.

Counter affidavit may be filed in the meantime.

Cr1.A. No. 1207/2023

(Arising out of SLP (Cr1.)No.5125/2023)

(Arising out of SLP (Cr1.)Diary No. 15706/2021)

Leave granted.

The appeal is allowed in terms of the signed order concluding as follows:

"After having heard the learned counsel for the appellants and the learned Additional Advocate General, we are of the view that the appeal must be allowed. The appeal is allowed. The impugned order is set aside. The application filed under Section 167(2) Cr.P.C. will stand allowed. The applicants (appellants) will stand released on default bail on the terms and conditions as may be imposed by the trial Court.

Pending applications stand disposed of."

(NIDHI AHUJA)

AR-cum-PS

(RENU KAPOOR)

ASSISTANT REGISTRAR

[Signed order is placed on the file.]