

NON-REPORTABLE

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL NOS. 1343-44 OF 2023
(@ SLP (CrI) Nos. 012669 - 012670 / 2022)**

Rahul Gupta

...Appellants(s)

Versus

State of Rajasthan & Anr. Etc.

...Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned order dated 18.07.2022 passed by the High Court of Judicate for Rajasthan Bench at Jaipur in S.B. Criminal Miscellaneous Bail Application No. 2363/2022 and S.B. Criminal Misc. II Bail

Application No. 10068/2022, by which, the High Court has directed to enlarge original accused – private respondents herein on bail in connection with FIR No. 474/2021 registered at Police Station Kotwali, District Dholpur for the offences under Sections 302, 307, 201, 120-B of IPC, the original complainant/informant has preferred the present appeals.

2. At the outset, it is required to be noted that private respondents – accused have been chargesheeted after investigation for the offences under Sections 302, 307, 201, 120-B of the IPC. Despite the above and without taking into consideration any of the material forming part of the chargesheet and without even considering the seriousness of the offences alleged; material collected during the

investigation, the High Court has by a non-speaking order has directed to release the accused – private respondents herein on bail by further observing that there is a possibility that trial may take long time to conclude. In a case for the offence under Section 302 of IPC in which one person was guilty, the High Court ought to have taken into consideration the material collected during the investigation. From the impugned order passed by the High Court, it appears that the only observations made by the High Court are

in paragraph 4 which reads as under: -

“4. Considering the arguments advanced by the counsel for the parties and looking to the possibility that the trial may take long time to conclude, this court deems it just and proper to enlarge the petitioners on bail.”

When the accused are chargesheeted after the investigation, the High Court ought

to have taken note of and/or considered the material collected during the investigation even to find out whether there is any material collected during the investigation involving the accused for the serious offence under Section 302 of IPC and therefore, whether it is a fit case to enlarge the accused on bail or not. Under the circumstances, the impugned order passed by the High Court is unsustainable and the same deserves to be quashed and set aside and the matter is required to be remitted back to the High Court to decide the bail applications afresh.

3. Learned counsel appearing on behalf of the original accused has submitted that wife of accused – Sunil Gupta is suffering from brain haemorrhage. It will be open for the accused to prayer for interim bail and/or seek bail on

that ground which may be considered by the High Court in accordance with law and on its own merits.

4. In view of the above and for the reasons stated above, the present appeals succeed. The impugned order passed by the High Court releasing private respondents herein – original accused on bail is hereby quashed and set aside. Original accused are directed to surrender before the concerned Court/Jail authority within a period of 10 days from today and thereafter, the High Court to decide and dispose of the bail application(s) afresh in accordance with law and on its own merits and after perusing and/or taking into consideration the material/evidence collected during the investigation which are now a part

of the chargesheet and upon taking into consideration the relevant aspects which are required to be kept in mind while examining the prayer for bail.

After surrender, the High Court on remand to decide and dispose of the bail application(s) as observed hereinabove at the earliest. With this the present appeals are allowed.

.....J.
[M.R. SHAH]

.....J.
[AHSANUDDIN AMANULLAH]

NEW DELHI;
MAY 04, 2023