



NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). OF 2024
(@ SPECIAL LEAVE PETITION(CRL.) NO(S). 16226 OF 2023)

DIRECTORATE OF ENFORCEMENT & ANR.APPELLANT(S)

VERSUS

BABLU SONKAR & ANR.RESPONDENT(S)

J U D G M E N T

ABHAY S. OKA, J.

1. Leave granted.
2. We have heard the learned Additional Solicitor General for the appellants and the learned senior counsel appearing for the first respondent.
3. The first respondent is the writ petitioner, who filed the writ petition in the Bombay High Court for quashing a complaint filed by the Enforcement Directorate under Prevention of Money Laundering Act, 2002 (for short 'PMLA'). In the writ petition filed by the first respondent, there was no interim relief granted pending the hearing of the petition.
4. The report submitted by the Registrar General of the Bombay High Court records that a roster Bench finally heard the writ petition and on 21.04.2023 and the judgment was reserved. As noted by the Registrar General of the High Court, the roster of the Bench

which heard the case of criminal writ petitions for quashing was only upto 04.06.2023 and the same roster was entrusted to another Bench with effect from 05.06.2023 till 20.08.2023.

5. As can be seen from the copy of the cause list annexed by the Registrar General to his report, on 26.06.2023, the writ petition filed by the first respondent was listed for further hearing. The impugned order was passed in the Chamber on that day. In paragraph '2' of the impugned order, the Bench recorded that there were similar matters involving the same issue and its judgment will have impact on other cases which were pending. Thereafter, the Bench proceeded to pass the impugned order in terms of the paragraph '3', which reads thus: -

"3. We, therefore, direct that the judgment is de-reserved and this petition now shall be heard afresh along with the other connected matters and decided together in accordance with law. Meanwhile, in order to strike balance between the competing rights of the prosecution and the petitioner/ accused person, we direct that the petitioner be released on interim bail on his furnishing a PR bond of Rs. 1,00,000/- with two solvent sureties of Rs. 50,000/- each, to be furnished before the Special Court dealing with the present ECIR on conditions that the petitioner shall not leave the jurisdiction of the Special Court Mumbai without prior permission of that Court; shall not tamper with the prosecution witnesses and the evidence, shall not tamper with the prosecution witnesses and the evidence; shall co-operate with the investigating officer in the investigation of the offence registered against the petitioner and, shall make himself available before the Special Court as and when required by the Court or the investigating Officer. All questions are kept open."

(Underline added)

6. The moment the Bench directed that the case was released and it should be heard afresh, the propriety required that the Bench should not have passed any order on merits, as the roster of the

writ petition was with another Bench on that day.

7. What is shocking is that after releasing the case, when admittedly there was no prayer made by the first respondent for grant of bail on 26.06.2023, the Bench granted bail for releasing the first respondent. Even during the pendency of writ petition, bail was not granted to the first respondent though a prayer for interim relief of grant of bail was made in the petition. Even if such a prayer would have been made on 26.06.2023, the Bench could not have heard the prayer for bail. Only the roster Bench could have heard the same. On that day, the advocate for the first respondent admittedly did apply for bail. Therefore, the appellants were not heard on the prayer for bail. Moreover, bail was granted in an offence under the PMLA without recording any reasons. Bail cannot be granted in such a case only to "strike a balance".

8. We have no manner of doubt that the impugned order to the extent to which bail was granted to the first respondent will have to be quashed and set aside. These are all matters of propriety. Roster notified by the Chief Justice is not an empty formality. All Judges are bound by the same. On 26.06.2023, after releasing the case which was heard two months back, the Bench has proceeded to grant bail without anyone praying for grant of bail. No Bench can hear a case, unless as per the prevailing roster, the particular case is assigned to the Bench or that the case is specially assigned to the Bench by the Chief Justice. Therefore, we set aside that part of the impugned order by which bail was granted.

9. We permit the first respondent to move the roster Bench by filing an application for interim relief/grant of bail. Such

application shall be entertained by the High Court, only after the first respondent surrenders. We grant time of two weeks to the first respondent to surrender. If such an application is made by the first respondent, it shall be taken up by the concerned roster Bench and decided by giving necessary priority as expeditiously as possible, considering the fact that now the writ petition will have to be heard afresh.

10. We make it clear that we are not setting aside the order granting bail on merits in the sense that we have not dealt with the issue whether the first respondent is entitled to be released on bail by way of interim relief. The said aspect shall be considered by the High Court while dealing with the application, which may be filed by the first respondent.

11. The appeal is partly allowed on the above terms.

12. There is no reason to entertain the application being I.A. No. 33382 of 2024 for intervention and the same stands dismissed.

13. Pending application(s), if any, shall stand disposed of.

.....J.
[ABHAY S. OKA]

.....J.
[UJJAL BHUYAN]

NEW DELHI;
FEBRUARY 09, 2024.