ITEM NO.49 COURT NO.6 SECTION II-A

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

CRIMINAL APPEAL Diary No(s). 13604/2024

(Arising out of impugned final judgment and order dated 19-03-2024 in CRLA No. 854/2013 19-03-2024 in CRLA No. 350/2015 passed by the High Court Of Judicature At Bombay)

PRADEEP RAMESHWAR SHARMA Appellant(s)

VERSUS

THE STATE OF MAHARASHTRA & ANR. Respondent(s)

(IA No.78336/2024-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.78335/2024-EXEMPTION FROM FILING O.T. and IA No.78334/2024-SUSPENSION OF SENTENCE
IA No. 78336/2024 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT
IA No. 78335/2024 - EXEMPTION FROM FILING O.T.
IA No. 78334/2024 - SUSPENSION OF SENTENCE)

Date : 10-05-2024 This matter was called on for hearing today.

CORAM :
HON'BLE MR. JUSTICE HRISHIKESH ROY
HON'BLE MR. JUSTICE PRASHANT KUMAR MISHRA

For Appellant(s) **Mr. Mukul Rohatgi, Sr. Adv.**
Mr. Sidharth Luthra, Sr. Adv.
Mr. Subash Jadhav, Adv.
Mr. Kumar Vaibhaw, Adv.
Mr. Nikhil Rohatgi, Adv.
Mr. Chandan Singh Sekhawat, Adv.
Mr. Dilip Kumar Rawat, Adv.
Mr. Samarth Luthra, Adv.
Mr. Mohd Ashaab, Adv.
Mr. Dhananjay Yadav, Adv.
Ms. Devina Sehgal, AOR

For Respondent(s) **Mr. R Basant, Sr. Adv.**
Mr. Diwakar Singh, Adv.
Mr. Sarath S Janardanan, Adv.
Mr. Rudreshwar Singh, Adv.
Mr. Nitesh Ranjan, AOR
Mr. Parijat Chandan, Adv.
Mr. Amritesh Raj, Adv.
Mr. Piyush Singh, Adv.
Mr. Abhinav Gupta, Adv.

Signature Not Verified
Digitally signed by Deepak Josh
Date: 2024.05.11 14:17:54 IST
Reason:

Mr. Akshay Malviya, Adv.
Ms. Kajal Singh, Adv.

Mr. Siddharth Dharmadhikari, Adv.
Mr. Aaditya Aniruddha Pande, AOR
Mr. Bharat Bagla, Adv.
Mr. Sourav Singh, Adv.
Mr. Aditya Krishna, Adv.
Ms. Preet S. Phanse, Adv.
Mr. Adarsh Dubey, Adv.

UPON hearing the counsel the Court made the following

O R D E R

Heard Mr. Sidharth Luthra, the learned Senior Counsel appearing for the appellant. Also heard Mr. R Basant, learned Senior Counsel appearing for the victim – brother of the deceased. The State is represented by Mr. Siddharth Dharmadhikari, learned counsel.

2. Notice in this case was issued on 08.04.2024, with the following order:-

> ***"..***
> ***2.It is a case of reversal of acquittal by the High Court and the appeals are filed under Supreme Court (Enlargement of Criminal Appellate Jurisdiction) Act, 1970. The statutory appeals are admitted.***
> ***3.The senior counsel would point out that the appellant was a Police Officer at the relevant time and was arrayed as accused No.1 in the case arising out of FIR No.246/2009 registered at the Varsova Police Station. The alleged incident occurred on 11.11.2006 resulting in the death of one, Ramnarayan Gupta. The senior counsel would submit that the appellant was not immediately arrested but came to be arrested much later on 07.01.2010. He faced trial and the learned Trial Court by its order dated 12.07.2013 held that the conviction of the appellant is not warranted and accordingly acquittal order was passed in his favour.***

4. However on appeal, the learned Division Bench of the High Court by an equally detailed order has reversed the acquittal judgment and ordered for conviction of the appellant.

5. The primary contention of the senior counsel is that the presence of the appellant at the place of occurrence was not attributed by any of the witnesses. But he was roped in since the empty and the bullet killing the deceased, is attributed to the service revolver of the appellant.

6. The learned counsel for the respondent No.2 in his turn would submit that the appellant was heading a Police team against which serious allegation were made and although the Trial Court had acquitted the appellant, the High Court under the impugned judgment dated 19.03.2024 has rightly reversed the acquittal order and convicted the appellant. The counsel points out that the charge against the appellant is of formation of an illegal squad, abduction and also wrongful confinement and the eventual killing. Therefore the bail for the appellant should not be lightly considered.

7. Issue notice on the bail prayer, returnable in four weeks. As the High Court has stipulated three weeks' time to surrender, the appellant need not surrender in terms of the said direction until the next date. Accordingly Application (IA No.78333/2024) for exemption from surrendering is allowed.

8. Additional documents are permitted to be filed."

3. As can be seen, the High Court had stipulated three weeks' time to surrender but this Court passed an interim order, staying the said direction until the returnable date.

4. Elaborate arguments are made by the two Senior Counsel, Mr. Siddharth Luthra and Mr. R Basant. The submission of Mr. Dharmadhikari representing the State of Maharashtra is that the appellant was on bail during the proceeding before the High Court and therefore the State does not wish to oppose bail for the appellant.

5. By this Court's order dated 08.04.2024, the appellant was exempted from surrendering as was temporarily permitted by the High Court. Now that the appeal is being entertained under the provisions of Section 379 CrPC read with the *Supreme Court (Enlargement of Criminal* Appellate Jurisdiction) Act, 1970 and taking note of the fact that the appellant was on bail during the proceedings before the High Court, and his bail is not opposed by the learned public prosecutor, his bail is being considered. For this, the appellant should first surrender to the process of law since the acquittal order passed in his favour was reversed by the High Court by the impugned judgment dated 19.03.2024.

6. Accordingly, the appellant is directed to surrender within 7 days from today before the Trial Court, Greater Mumbai. Upon such surrender, the learned Trial Court should grant bail to the appellant on such terms as may be considered appropriate. It is ordered accordingly.

7. The Trial Court records be requisitioned.

(DEEPAK JOSHI)
ASTT. REGISTRAR-cum-PS

(KAMLESH RAWAT)
ASSISTANT REGISTRAR