

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO(S). 828 OF 2022.
(Arising out of SLP(Crl.)No(s).407/2022)

STATE OF JHARKHAND

APPELLANT(S)

VERSUS

BABLU MODI @ BIRU @ UPENDER MODI

RESPONDENT(S)

O R D E R

Leave granted.

The respondent - Bablu Modi @ Biru @ Upender Modi is facing prosecution in chargesheet no.30 of 2019 arising out of Harla P.S.Case No.127 of 2018, registered under Sections 302, 201 read with Section 34 of the Indian Penal Code, 1860 and Section 27 of the Arms Act, 1959.¹

By impugned order dated 01.07.2021, the respondent has been granted bail by the High Court primarily on two grounds; (i)co-accused Ajay Singh @ Anjay Singh, who was standing near the respondent at the place of occurrence has been granted bail, and (ii) two other co-accused, namely, Sanjay Singh and Shankar Rawani were specifically alleged to have shot the deceased. The High Court recorded as follows:

“It appears that the petitioner was attributed to have been standing near the place of occurrence along with co-accused Ajay Singh @ Anjay Singh who has been granted bail by this court in B.A.No.1768 of 2020. It appears that specific allegation of firing rests upon Sanjay Singh and Shankar

¹ A supplementary chargesheet dated 23.10.2019, bearing no. 136/2019 was also filed.

Rawani."

As per the allegations made in the FIR dated 18.10.2018, the deceased - Raghu Purti, repeatedly received telephone calls from the respondent, inviting him to eat Navmi *prasad*. Pursuant to these calls, the deceased, along with Kundia Purti, Rajesh Bahadur, and Raju Gope, proceeded to Pond-1, North side of Mahesh Pur Colony in the forest. Upon reaching the site, the respondent took the deceased aside and physically attacked him. Thereafter, the deceased was shot by the other co-accused.

Post the registration of the FIR, as the respondent had absconded, proceedings under Sections 82 and 83 of the Code of Criminal Procedure, 1973 were initiated. The respondent was arrested on 03.02.2021.

Learned counsel for the respondent, in the counter affidavit, has stated that three other co-accused have been granted bail. Learned counsel for the State has submitted that the State has already preferred/filed special leave petition(s) against grant of bail to the other co-accused.

Learned counsel for the respondent has drawn our attention to the deposition of witnesses recorded by the trial court. It is submitted that two out of three of the purported eye-witnesses, Rajesh Bahadur and Raju Gope, have turned hostile. We do not want to comment in this regard as the matter is pending trial. However, the third eye-witness, Kundia Purti, is yet to be examined.

Keeping in view of the facts on record, we do not think that the High Court was justified and correct in releasing the respondent on

bail for the reasons reproduced above. It may be noted here that the State has drawn a distinction between the role of the respondent and the co-accused - Ajay Singh @ Anjay Singh. We are not delving into this aspect as the State has already preferred a special leave petition against grant of bail to Ajay Singh @ Anjay Singh. For the present appeal, we have taken the relevant aspects into consideration, which include the nature of the allegation levelled against the respondent, his abscondence, his alleged role in furtherance of common intention to commit the offence, the gravity of the charge, the fact that all eye-witnesses have not yet been examined, and the possibility of influencing the witnesses.

For these reasons, we allow the present appeal and set aside the impugned order dated 01.07.2021 passed by the High Court. The respondent will surrender within a period of 10 days from today failing which, the police would take steps to detain him in accordance with law.

The appeal is allowed in the aforesaid terms, without any order as to the costs. The facts noted above are for the disposal of the present appeal and would not be treated as expression of opinion on the merits of the case.

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

.....J
(SANJIV KHANNA)

.....J
(BELA M. TRIVEDI)

NEW DELHI;
MAY 18, 2022.

ITEM NO.13

COURT NO.14

SECTION II-A

S U P R E M E C O U R T O F I N D I A
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s). 407/2022

(Arising out of impugned final judgment and order dated 01-07-2021 in BA No. 5308/2021 passed by the High Court Of Jharkhand At Ranchi)

STATE OF JHARKHAND

PETITIONER(S)

VERSUS

BABLU MODI @ BIRU @ UPENDER MODI

RESPONDENT(S)

(FOR ADMISSION and I.R. and IA No.8261/2022-EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT and IA No.8262/2022-EXEMPTION FROM FILING O.T. & IA No. 43163/2022 - EXEMPTION FROM FILING O.T.)

Date : 18-05-2022 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SANJIV KHANNA
HON'BLE MS. JUSTICE BELA M. TRIVEDI

For Petitioner(s) Mr. Barun Kumar Sinha, AAG
Mr. Kumar Anurag Singh, Adv.
Mr. Manoj Kumar, Adv.
Mr. Shwetank Singh, Adv.
Ms. Adya Shree Dutta, Adv.
Mr. Jayant Mohan, AOR

For Respondent(s) Mr. Md. Ali, AOR

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

Leave granted.

The appeal is allowed in terms of the signed order.

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

(NIRMALA NEGI)
COURT MASTER (SH)

(DIPTI KHURANA)
ASSISTANT REGISTRAR

(Signed order is placed on the file)