

ITEM NO.43

COURT NO.17

SECTION X

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

Writ Petition(s)(Criminal) No(s). 75/2024

GANPAT @ GANATPAT

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

(FOR ADMISSION and IA No.34429/2024-EXEMPTION FROM FILING O.T.)

Date : 16-02-2024 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE DIPANKAR DATTA

HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASHI

For Petitioner(s) Mr. Surya Kant, AOR
Ms. Priyanka Tyagi, Adv.

For Respondent(s)

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

1. This is a petition under Article 32 of the Constitution of India by a convict seeking *inter alia* the following relief:

a. To issue a writ in the nature of mandamus or any other appropriate writ or direction for expeditious disposal of Criminal Appeal No. 5927 of 2016 filed by the Writ Petitioners.

b. Direct an interim suspension of sentence and enlarge the petitioner herein on bail in Criminal Appeal No. 5927/2016 before the Hon'ble High Court of Allahabad against the order dated 31.08.2016 passed by the Ld. Court of Additional Sessions Judge/Fast Track Court, Chitrakoot in Sessions Trial No.75/2010.

2. There is no provision in Chapter-IV (titled The Union Judiciary) under Part-V (The Union) of the Constitution of India which, in terms similar to Article 227 of the Constitution (Power of superintendence over all courts by the High Court) under Chapter-V thereof, confers power of superintendence on the Supreme Court over the High Courts. Reference in this connection may be made to the decision of this Court in *Tirupati Balaji Developers (P) Ltd. Vs. State of Bihar*¹. It has been highlighted there that in our constitutional scheme there is a clear division of jurisdiction between the two institutions and both the institutions need to have mutual respect for each other. Accepting the prayer of the petitioner and issuing any direction, as prayed, would amount to inappropriate exercise of discretionary jurisdiction showing disrespect to another constitutional court; hence, no such direction, as prayed by the petitioner, can be issued.

3. That apart, assuming that an extraordinary case requires a nudge from this Court for early hearing of a long pending criminal appeal, it is only a request that ought to be made to the High Court to such effect in appropriate proceedings, care being taken to ensure that the proceeding before this Court is otherwise maintainable. Bearing in mind the Constitution Bench decision in *Naresh Shridhar Mirajkar Vs. State of Maharashtra*², which has laid down the law more than half a century back that a judicial decision rendered by a Judge of competent jurisdiction in or in relation to

1 (2004) 5 SCC 1

2 AIR 1967 SC 1

a matter brought before him does not infringe a Fundamental Right, we are of the clear view that the instant writ petition (presented by the petitioner aggrieved by non-consideration and non-disposal of his criminal appeal) is not maintainable. If priority has not been given to the petitioner's criminal appeal (albeit filed in 2016) by the High Court for early hearing, for whatever reason, the same is also part of the judicial process and cannot be made amenable to a challenge in a writ petition under Article 32 citing breach of Article 21. Also, it is noted that the High Court has previously, pending his criminal appeal, denied the petitioner bail twice and one such denial having been challenged, it has failed before this Court. The petitioner, if he wishes to be released on bail pending the criminal appeal, cannot invoke the writ remedy but has to take recourse to an application under Section 389(1) of the Code of Criminal Procedure.

4. This writ petition is thoroughly misconceived and, accordingly, stands dismissed. Pending application(s), if any, stand(s) disposed of.

5. If so advised, the petitioner will be at liberty to seek appropriate relief before the High Court and his prayer may be considered and disposed of without being influenced by dismissal of this writ petition.

(NISHA KHULBEY)
SENIOR PERSONAL ASSISTANT

(POOJA SHARMA)
COURT MASTER (NSH)