

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.5385 OF 2024  
(Arising out of SLP(Crl.) No.5027 of 2024)

X

...APPELLANT(S)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

...RESPONDENT(S)

WITH

CRIMINAL APPEAL NO.5386 OF 2024  
(Arising out of SLP(Crl.) No.5305 of 2024)

O R D E R

1. Leave granted.
2. Both the Appeals arising out of the common F.I.R. and involving common question of law have been heard together and are being decided by this common order.
3. The Appeal arising out of SLP (Crl.) No.5027 of 2024 is filed by the appellant - X challenging the impugned order dated 11.08.2023 passed in Criminal Misc. Bail Application No.44142 of 2021, and the Appeal arising out of SLP(Crl.) No.5305 of 2024 is filed by the same appellant - X challenging the impugned Order dated 11.08.2023 passed in Criminal Misc. Bail Application No.43380 of 2021 whereby the High Court has granted bail to the concerned respondent No.2 accused in both the Appeals in connection with the FIR No.599 of 2021 registered for the offences under Sections 323/363/376DA/506/392 of IPC and Sections 5(g) and 6 of POCSO Act, 2012 and Sections 3(2) and 5(A) of the Scheduled

Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989 (hereinafter referred to as "SC/ST Act").

4. In both the Appeals, the learned counsel for the appellant, who is the victim, has raised a substantial question of law, as to whether the appellant should have been given an opportunity of hearing and should have been made party in the bail proceedings filed by the concerned respondents before the High Court.

5. In the instant case, it appears to be that the concerned respondents - accused had not impleaded the present appellant as the party - respondent in the bail proceedings filed by them before the High Court, and the concerned Public Prosecutor also had not informed the appellant - victim about the said proceedings.

6. It is pertinent to note that as per Section 439(1A) of Cr.P.C., the presence of the informant or any person authorised by him or her is obligatory at the time of hearing of the application for bail to the person under sub-section (3) of Section 376 or Section 376AB or Section 376DA or Section 376DB of the IPC. Similarly, it is also mandatory on the part of the Special Public Prosecutor of the State Government to inform the victim about the court proceedings, including bail proceedings as contemplated in sub-section (3) of Section 15A of the Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act, 1989.

7. In the instant case, there is gross violation of the said statutory provisions contained in Section 439(1A) of Cr.P.C. and Section 15A(3) of the SC/ST Act, at the

instance of the respondents. The High Court also in the impugned order has not considered the said mandatory requirement of both the Acts and granted bail to the concerned respondents in a very casual and cursory manner and without assigning any cogent reasons, though the concerned respondents are *prima facie* involved in a very serious offences.

8. Under the circumstances, we are of the opinion that the impugned orders passed by the High Court in utter disregard of the mandatory provisions contained in the Cr.P.C. as well as in the SC/ST Act, deserve to be set aside and are hereby set aside. The concerned respondents, i.e., Khargesh @ Golu, s/o Mukesh Kumar and Karan, s/o Paramhans Singh shall surrender before the Trial Court on or before 30.12.2024.

9. Both the Appeals stand allowed accordingly.

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

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

.....J.  
(SATISH CHANDRA SHARMA)

NEW DELHI;  
13<sup>TH</sup> DECEMBER, 2024.

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 (Crl.) No(s).5027/2024

[Arising out of impugned final judgment and order dated 11-08-2023 in CRMA No.44142/2021 passed by the High Court of Judicature at Allahabad]

X Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR. Respondent(s)  
(IA No. 73691/2024 - EXEMPTION FROM FILING O.T.)

WITH

SLP (Crl) No. 5305/2024 (II)

(IA No. 53952/2024 - EXEMPTION FROM FILING O.T.)

Date : 13-12-2024 These matters were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI  
HON'BLE MR. JUSTICE SATISH CHANDRA SHARMA

For Petitioner(s) Mr. Pranav Sachdeva, AOR  
Mr. Jatin Bhardwaj, Adv.  
  
Mr. D. Abhinav Rao, AOR  
Mr. Pratik Samajpati, Adv.

For Respondent(s) Dr. Vijendra Singh, AOR  
Mr. Vikas Bansal, Adv.  
  
Mr. Rakesh Mishra, AOR  
  
Mr. Rajiv Dewan, Adv.  
Mr. Divakar Kumar, AOR

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

1. Leave granted.
2. In terms of the signed order, the Criminal Appeals are allowed.
3. Pending application(s), if any, shall stand disposed of.

(RAVI ARORA)  
COURT MASTER (SH)

(MAMTA RAWAT)  
COURT MASTER (NSH)

(signed order is placed on the file)