



IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.4283 OF 2024  
(Arising out of S.L.P.(Criminal) No.11876 of 2024)

ABHISHEK & ANR. ... APPELLANT(S)

VS.

THE STATE OF RAJASTHAN & ORS. ... RESPONDENT(S)

O R D E R

Leave granted.

Heard the learned senior counsel appearing for the appellants, the learned Additional Advocate General for the first respondent-State and the learned counsel representing the second respondent-complainant. We have also heard the learned Additional Solicitor General appearing for the third respondent-Central Bureau of Investigation (CBI).

While dismissing the Criminal Appeal filed by the appellants, the High Court rejected the prayer for grant of bail to the appellants made under Section 439 of the Code of Criminal Procedure, 1973. The High Court, by the impugned order, directed the CBI to conduct the investigation into the offence and therefore, the learned Single Judge transferred the investigation to the CBI. Charge-sheet has been filed by the State Police and out of 67 cited witnesses, 14 have already been examined.

Suffice it to say that while rejecting the prayer for grant of bail to the appellants, the High Court ought not to have transferred the investigation to the CBI. The direction is to make a *de-novo* investigation. Such a direction could not have been issued, while rejecting the prayer for grant of bail to the appellants.

We have perused the post-mortem notes and the evidence of PW-3, the medical officer. We are satisfied that a case is made for enlarging the appellants on bail, especially when in the counter affidavit filed by the State, antecedents of the appellants are not brought on record.

Accordingly, the impugned order is set aside. The appellants shall be produced before the Trial Court within a maximum period of one week from today. The Trial Court shall enlarge the appellant on bail on appropriate terms and conditions till the conclusion of the trial.

The appeal is accordingly allowed.

.....J.  
(ABHAY S.OKA)

.....J.  
(AUGUSTINE GEORGE MASIH)

NEW DELHI;  
October 21, 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 (CrI.) No(s). 11876/2024

(Arising out of impugned final judgment and order dated 14-08-2024 in SBCRA(SB) No. 943/2024 passed by the High Court of Judicature for Rajasthan, Bench at Jaipur)

ABHISHEK & ANR.

Petitioner(s)

VERSUS

THE STATE OF RAJASTHAN & ORS.

Respondent(s)

(IA No. 195686/2024 - EXEMPTION FROM FILING O.T.  
IA No. 195685/2024 - PERMISSION TO FILE ADDITIONAL  
DOCUMENTS/FACTS/ANNEXURES)

Date : 21-10-2024 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE AUGUSTINE GEORGE MASIH

For Petitioner(s)

Mr. Mukul Rohatgi, Sr. Adv.  
Mr. Anand Varma, AOR  
Mr. Sandeep Singh Shekhawat, Adv.  
Mr. Ayush Gupta, Adv.

For Respondent(s)

Mr. Shiv Mangal Sharma, A.A.G.  
Mr. Amogh Bansal, Adv.  
Ms. Nidhi Jaswal, AOR  
  
Mr. Ajit Kumar Thakur, Adv.  
Mr. Ram Nath, Adv.  
Ms. Kiran Singh, Adv.  
Dr. Sushil Balwada, AOR  
  
Mrs. Aishwarya Bhati, A.S.G.  
Mr. Mukesh Kumar Maroria, AOR  
Mrs. Chitragda Rastaravara, Adv.  
Ms. Shreya Jain, Adv.  
Mr. Jagdish Chandra Solanki, Adv.  
Ms. Vidya Vijaysingh Pawar, Adv.

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.

The appellants shall be produced before the Trial Court within a maximum period of one week from today. The Trial Court shall enlarge the appellant on bail on appropriate terms and conditions till the conclusion of the trial.

Pending applications also stand disposed of.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

(Signed order is placed on the file.)