

2022 LiveLaw (SC) 815

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
DINESH MAHESHWARI; J., BELA M. TRIVEDI; J.

September 29, 2022.

CRIMINAL APPEAL NOS. 1703-1704 OF 2022 (Arising out of S.L.P.(CrI.) No. 3242-3243 of 2019)

UDHO THAKUR AND ANR. ETC. v. THE STATE OF JHARKHAND & ANR.

Code of Criminal Procedure, 1973; Section 438 - Petitions seeking relief of pre arrest bail are not money recovery proceedings - Supreme Court sets aside condition imposed by the Jharkhand High Court of depositing 7.5 Lakhs as "victim compensation" while granting pre-arrest bail.

(Arising out of impugned final judgment and order dated 17-01-2019 in ABA No. 5686/2018 17-01-2019 in ABA No. 6085/2018 passed by the High Court of Jharkhand at Ranchi)

For Petitioner(s) Mr. Amit Kumar, Adv. Mr. Ali Mushtaq Nawazish, Adv. Mr. Naeem Ilyas, Adv. Mr. Inderjeet Singh Maini, Adv. Mr. Akhilesh Kr. Pandey, Adv. Ms. Neelam Singh, AOR

For Respondent(s) Mr. Kumar Anurag Singh, Adv. Ms. Pallavi Langar, AOR Mr. Akshat Singh, Adv. Mr. Pranesh, AOR

ORDER

Leave granted.

At the outset, learned counsel for the State has frankly referred to the order dated 24.08.2022 passed by a co-ordinate Bench, disapproving the propositions adopted in several orders by the High Court, imposing the terms of payment for the purpose of granting the relief of pre-arrest bail and remitting the matter for re-consideration with several observations.

Having regard to the circumstances of the case, we felt inclined to pass similar order in the present matter too, where the High Court has proceeded to grant the concession of pre-arrest bail to the appellants on the condition of their furnishing a bond in the sum of Rs.25,000/- and also depositing a demand draft in the sum of Rs.7,50,000/- as an ad-interim victim compensation. However, learned counsel for the respondent No. 2 has submitted that the expression "victim compensation" as used in the impugned order may not be apt for the reason that it was not a case of recovery of victim compensation but, otherwise, the condition cannot be said to be unjustified or onerous because receiving of the said sum of Rs. 7,50,000/- by the appellants at the time of marriage has not been a fact in dispute.

Even if we take the submissions of the learned counsel for the contesting respondent on its face value, we are clearly of the view that in essence, the petitions seeking relief of prearrest bail are not money recovery proceedings and, ordinarily, there is no justification for adopting such a course that for the purpose of being given the concession of pre-arrest bail, the person concerned apprehending arrest has to make payment.

While issuing notice in this matter on 16.04.2009, this Court has provided that the appellants shall not be arrested in connection with Complaint Case No. 1484 of 2017. Obviously, the said condition of depositing Rs.7,50,000/- stood arrested because of the stay order of this Court. This position has hitherto continued.

Having regard to the circumstances, in our view, the said condition of depositing a sum of Rs.7,50,000/- for the purpose of granting the relief of pre-arrest bail cannot be approved and else, the order granting bail deserves to be maintained. Hence, we are of the view that no useful purpose would be served by sending the matter for reconsideration to the High Court and the order impugned deserves to be modified appropriately in these appeals only.

For what has been observed and discussed hereinabove, the order impugned is modified in the manner that while other directions and requirements of the order i.e., of releasing the appellants on bail in the event of arrest on furnishing bond of Rs. 25,000/-, shall remain intact but the other part of the order, requiring the appellants to deposit a sum of Rs. 7,50,000/-, shall stand annulled.

The appeals are allowed to the extent and in the manner indicated above.

All pending applications stand disposed of.

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