

**IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION**

CRIMINAL APPEAL NOS.2026-2027 OF 2024
(Arising out of SLP(Criminal) Nos.3835-3836 of 2023)

UNION OF INDIA **...APPELLANT(S)**

VERSUS

OM PRAKASH YADAV AND ANR. **...RESPONDENT(S)**

O R D E R

1. Leave granted.
2. The present appeals are directed against the common impugned order dated 11.08.2022 passed in Criminal Bail Application Nos. 56028 of 2021 and 22074 of 2022 passed by the High Court of Allahabad, whereby the High Court has released the respondents on bail, subject to the conditions mentioned therein.
3. Heard the learned A.S.G., Mr. Nataraj for the appellant - Union of India; learned counsel, Mr. Bimlesh Kumar Singh, for the respondent No.1 - Om Prakash Yadav and learned counsel, Ms. Preetika Dwivedi, for the respondent No.2 - Amit Yadav.
4. It is sought to be submitted by the learned A.S.G., Mr. Nataraj that this Court has already canceled the bail of the co-accused, Ajay Kumar Singh @ Pappu in the Criminal

Appeal arising out of SLP (Cr1.) No.2351 of 2023 mainly on the ground of the non-compliance of the provisions contained in Section 37 of the NDPS Act and in the instant case also, the High Court has failed to take into consideration the said compliance. According to him, the respondent No.1 - Om Prakash Yadav, who was the driver and the respondent No.2 - Amit Yadav, who was the helper were found to be in possession of the huge quantity of Ganja weighing 3,842 Kg, which was being carried in the truck driven by the respondent No.1 - Om Prakash Yadav.

5. However, the learned counsel for the respondents have submitted that the respondents were not aware about the alleged Ganja being carried in the truck as they were only the driver and the helper. They also submitted that there are no criminal antecedents against the said respondents. They have also submitted that the trial is at the stage of framing of charge and they shall cooperate with the trial.

6. Having regard to the submissions made by the learned counsel for the parties, we are of the opinion that the impugned order passed by the High Court is not in consonance with the provisions contained in Section 37 of the NDPS Act, which provides *inter alia* that no person accused of an offence involving commercial quantity shall be released on bail unless twin conditions are satisfied, namely, (i) the Public Prosecutor has been given an opportunity to oppose the bail application, and (ii) the

court is satisfied that there are reasonable grounds for believing that he is not guilty of such offence and that he is not likely to commit any offence while on bail.

7. In the instant case, both the respondents were found to be in possession of the contraband substance, namely, Ganja, weighing about 3,842 Kg. in the truck driven by the respondent No.1 - Om Prakash Yadav and he was accompanied by the respondent no.2 Amit Yadav. The allegations are also made that the very registration number of the vehicle, i.e., truck, was fake and the addresses mentioned on the consignments were also found to be forged.

8. Having regard to such a huge quantity being carried in the truck, it is not believable that the respondents were not aware about the contents of the consignments being carried in the truck. The respondents having prima facie failed to satisfy us that they were not guilty of the alleged offences, it could not be said that there was compliance of the Section 37 of the NDPS Act.

9. In that view of the matter, the impugned order passed by the High Court deserves to be quashed and set aside and is set aside. The respondents are directed to surrender themselves within two weeks from today before the Trial Court.

10. Having regard to the facts and circumstances of the case, the Trial Court is directed to expedite the trial and conclude the same as expeditiously as possible, and

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preferably within one year. It is clarified that the observations made in this order shall not come in the way of the respondents - accused at the time of trial.

11. The appeals are allowed accordingly.

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

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

.....J.
(PANKAJ MITHAL)

NEW DELHI;
08TH APRIL, 2024.

ITEM NO.43

COURT NO.15

SECTION II

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).3835-3836/2023

(Arising out of impugned final judgment and order dated 11-08-2022 in CRMA No.56028/2021 and CRMA No.22074/2022 passed by the High Court of Judicature at Allahabad)

UNION OF INDIA

Petitioner(s)

VERSUS

OM PRAKASH YADAV & ANR.

Respondent(s)

(IA No. 47445/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT)

Date : 08-04-2024 These matters were called on for hearing today.

CORAM : HON'BLE MS. JUSTICE BELA M. TRIVEDI
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s) Mr. K.M. Nataraj, A.S.G.
Mr. Mukesh Kumar Maroria, AOR
Mr. Divyansh H Rathi, Adv.
Mr. Sharath Nambiar, Adv.
Mr. Anirudh Bhat, Adv.
Mr. Udai Khanna, Adv.
Mr. Amit Sharma B, Adv.
Mr. Ishaan Sharma, Adv.

For Respondent(s) Mr. Bimlesh Kumar Singh, AOR
Mr. Santosh Kumar Yadav, Adv.
Ms. Niharika, Adv.
Mr. Neeraj Agarwal, Adv.
Mr. Rajeev Kumar Gupta, Adv.
Mr. Nishant Anand, Adv.

Ms. Preetika Dwivedi, AOR
Mr. Abhisek Mohanty, Adv.

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.

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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)