



ITEM NO.2

COURT NO.1

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

Miscellaneous Application No.1628/2023 in SLP(Crl) No. 8052/2022

BANTU @ VIJAY KUMAR YADAV

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH

Respondent(s)

(FOR ADMISSION and IA No.116891/2023-GRANT OF BAIL and IA
No.116888/2023-FOR DIRECTION)

Date : 04-08-2023 This application was called on for hearing today.

CORAM : HON'BLE THE CHIEF JUSTICE
HON'BLE MR. JUSTICE J.B. PARDIWALA
HON'BLE MR. JUSTICE MANOJ MISRA

For Petitioner(s) Mr. Ravi Prakash Mehrotra, Sr. Adv.
Mr. Nagendra Singh, Adv.
Ms. Akansha, Adv.
Mr. Ashish Pandey, Adv.
Mr. Naman Raj Singh, Adv.
Mr. Akash Choudhary, Adv.
Dr. Amardeep Gaur, Adv.
For M/S. V. Maheshwari & Co., AOR

For Respondent(s) Ms. Garima Prashad, Sr. A.A.G.
Mr. Vishnu Shankar Jain, AOR

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

- 1 On 26 August 2022, this Court declined to grant bail to the applicant on the ground that the custody certificate dated 28 January 2022 indicated that the applicant had undergone imprisonment, without remission, for seven years and three days. While this Court took note of the fact that the co-accused had been granted bail, the order noted that in that case the co-accused had served over ten years of actual imprisonment, without remission.

2 Paragraphs 5 and 6 of the order dated 26 August 2022 are extracted below:

“5 The counter affidavit which has been filed in these proceedings by Mr Kamlesh Kumar, Circle Officer, P S Shikohabad, District Firozabad, Uttar Pradesh contains a specific statement that the custody certificate dated 28 January 2022 indicates that the petitioner has undergone imprisonment, without remission, for seven years and three days. The custody certificate is also on the record. Moreover, it has been submitted on behalf of the State that the criminal appeal which is pending before the High Court was adjourned on 30 May 2022 and 4 July 2022 at the request of the counsel for the petitioner.

6 The order granting bail to the co-accused in Criminal Appeal No 591 of 2022 (Annexure P-3) dated 8 April 2022 indicates that both the appellants in that case had served over ten years of actual imprisonment, without remission, as on 27 January 2022. This had weighed in the decision to grant bail in Criminal Appeal No 591 of 2022.”

3 We have heard Mr Ravi Prakash Mehrotra, senior counsel for the applicant, and Ms Garima Prashad, AAG for the State of Uttar Pradesh.

4 During the course of the hearing, it has been fairly stated by Ms Garima Prashad that, upon due verification, it was found that there was an inadvertent error in the custody certificate. The applicant has actually undergone custody of eleven years as on date. Moreover, this is clarified in the affidavit which has been filed on behalf of the State, which is on the record.

5 In the above facts, the factors which weighed with the Court in declining bail would now be subsumed by the affidavit filed on behalf of the State of Uttar Pradesh. The co-accused in a similar situation has already been granted bail. We accordingly direct that the applicant be granted bail, subject to such terms and conditions as may be imposed by the Sessions

Court, in connection with Sessions Trial No 393 of 2012.

6 The Miscellaneous Application is accordingly disposed of.

(SANJAY KUMAR-I)
DEPUTY REGISTRAR

(SAROJ KUMARI GAUR)
ASSISTANT REGISTRAR