

NON-REPORTABLE

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 1547 OF 2022

Nitu Kumar ...Appellant(s)
Versus
Gulveer & Anr. ...Respondent(s)

J U D G M E N T

M.R. SHAH, J.

1. Feeling aggrieved and dissatisfied with the impugned judgment and order dated 21.07.2022 passed by the High Court of Judicature at Allahabad in Criminal Misc. Bail Application No. 11120 of 2022, by which, the High Court has directed to release respondent No. 1 – accused on bail in connection with Case Crime No. 80 of 2021 for the offence punishable under Section 302 IPC of Police Station Rohata, District Meerut, the original complainant has preferred the present appeal.

2. That on 19.06.2021, on the report of the informant – Nitu Kumar, an FIR being Case Crime No. 80/2021 under Section 302 IPC of Police Station Rohata, District Meerut, came to be registered against accused Shekhar, Gulveer (respondent No. 1 herein) and one another person. During the course of the investigation, statement of eye-witness – Narender has been recorded. In his statement under Section 161 Cr.P.C., a specific role has been attributed to respondent No. 1 that he caught hold of the deceased and the co-accused Shekhar caused the injury on the neck of the deceased. In the FIR, the motive was also alleged. That respondent No. 1 came to be arrested on 24.06.2021. On conclusion of the investigation and based on the statements of informant, witnesses and on the basis of evidence collected during the investigation, a chargesheet has been filed for the offence punishable under Section 302 of IPC.

2.1 Respondent No. 1 – Gulveer filed a bail application before the learned Trial Court. The learned Sessions Judge dismissed the said bail application. Then, respondent No. 1 – Gulveer filed the present bail application before the

High Court. Before the High Court, it was mainly contended on behalf of respondent No. 1 – accused that the only role attributed to him is catching hold of the deceased and the main role of causing injuries to the deceased is assigned to the co-accused Shekhar. By the impugned judgment and order without considering seriousness and gravity of the offence committed and the role attributed to respondent No. 1 – accused and without assigning any reason and only by observing that *“Considering the facts and circumstances of the case, the submissions made by the learned counsel for the parties and keeping in view the nature of the offence, complicity of the accused, scrutinizing the facts mentioned in the FIR, statement of witnesses recorded under Section 161 Cr.P.C. and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail”* the High Court has released respondent No. 1 on bail.

2.2 From the aforesaid it can be seen that nothing has been discussed by the High Court on the role attributed to

respondent No. 1 – accused and his overt act in commission of the offence. The High Court has not appreciated that there is an eye witness, who has categorically stated that respondent No. 1 caught hold of the deceased. The High Court ought to have appreciated that if respondent No. 1 would not have caught hold of the deceased it would not have been possible for the co-accused Shekhar to cause injuries on the deceased. Therefore, the High Court ought to have appreciated that the role attributed to respondent No. 1 can be said to be very serious like co-accused Shekhar. As per the settled position of law, gravity and seriousness of the offence is a relevant consideration for the purpose of grant of bail. The High Court was required to consider the gravity and the seriousness of the offence and the nature of the allegations against respondent No. 1 – accused. Under the circumstances, the impugned judgment and order passed by the High Court releasing respondent No. 1 on bail for the offence punishable under Section 302 of IPC is unsustainable.

3. In view of the above and for the reasons stated above, the present appeal succeeds. The impugned judgment and order passed by the High Court releasing respondent No. 1 - accused on bail in Case Crime No. 80/2021 of Police Station Rohata, District Meerut for the offence punishable under Section 302 IPC is hereby quashed and set aside.
4. Now, respondent No. 1- Gulveer – accused shall surrender before the concerned Court/Jail authority forthwith failing which he be arrested by issuing non-bailable warrant. However, it is observed that the learned Trial Court to conduct the trial in accordance with law and on its own merits and on the basis of the evidence led before it. The present appeal is accordingly allowed to the aforesaid extent. No costs.

.....J.
[M.R. SHAH]

NEW DELHI;
SEPTEMBER 16, 2022

.....J.
[KRISHNA MURARI]