

IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO.3757 OF 2023  
(Arising out of S.L.P.(CrI.) No.8615 of 2023)

KRISHNA KUMAR & ORS. ... APPELLANT(S)

VS.

STATE OF UTTAR PRADESH ... RESPONDENT(S)

O R D E R

Leave granted.

2. Heard the learned counsel appearing for the appellant, the learned counsel appearing for the respondent-State and the learned counsel appearing for the first informant-caveator.

3. The appellants in this appeal are the appellants in Criminal Appeal No.9612 of 2022 before the High Court. The appeal against the order of conviction was admitted and the High Court granted bail pending the final disposal of the appeal.

4. The impugned order reads thus:

"Mr. Anil Kumar Srivastava, learned counsel for the appellants in the connected matter would not like to argue the matter before this Court.

This Court directs that the bail/interim bail and bail bonds of accused-appellants, Krishna Kumar and 2 others shall stand cancelled forthwith. They will surrender on or before 1.5.2023."

5. We are shocked to note that the advocate appointed by the appellants was bold enough to tell the concerned Bench of the High Court that he would not like to argue the matter before that Bench. We are separately dealing with the conduct of the advocate.

6. Needless to add that only on account of default by the advocate for the appellants, the appellants ought not to have been penalized by passing a drastic order of cancelling bail.

7. This Court has repeatedly taken the view that in a given case where an unwarranted adjournment is sought by the advocate representing the accused in the appeal against conviction, the Court has an option of appointing an amicus curiae to espouse the cause of the accused and hearing the appeal on merits. The said course could have been adopted by the High Court.

8. *Prima facie*, we are of the view that the conduct of the advocate recorded in the impugned order may amount to infamous conduct and it may also, *prima facie*, amount to a criminal contempt.

9. We, therefore, while disposing of this appeal, propose to issue show cause notice to the advocate calling upon him to remain present before this Court.

10. Hence, we set aside the second part of the order by which the bail granted to the appellants was cancelled. We restore the order dated 13<sup>th</sup> December, 2022 of the High Court granting bail to the appellants till the disposal of the appeal.

11. We make it clear that as and when the appeal is fixed for hearing, if the appellants seek an unwarranted adjournment, it will be open for the Court to proceed with the hearing of the Criminal Appeal by appointing an advocate as an amicus curiae.

12. We make it clear that the High Court will hear the application for bail in the connected Criminal Appeal in accordance with law.

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

.....J.  
(PANKAJ MITHAL)

NEW DELHI;  
December 01, 2023.

S U P R E M E C O U R T O F I N D I A  
RECORD OF PROCEEDINGS

Petition(s) for Special Leave to Appeal (Cr1.) No(s). 8615/2023

(Arising out of impugned interim order dated 26-04-2023 in CRLA No. 9612/2022 passed by the High Court of Judicature at Allahabad)

KRISHNA KUMAR & ORS.

Petitioner(s)

VERSUS

STATE OF UTTAR PRADESH

Respondent(s)

(IA No. 97024/2023 - EXEMPTION FROM FILING C/C OF THE IMPUGNED JUDGMENT

IA No. 97025/2023 - EXEMPTION FROM FILING O.T.)

Date : 01-12-2023 This matter was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA  
HON'BLE MR. JUSTICE PANKAJ MITHAL

For Petitioner(s)

Mr. Viraj Kadam, Adv.  
Mr. Soumya Dutta, AOR  
Mr. Siddhant Upmanyu, Adv.

For Respondent(s)

Mr. Shantanu Krishna, AOR  
Mr. Sidharth Sarthi, Adv.  
  
Ms. Tulika Mukherjee, AOR  
Mr. Purnendu Bajpai, Adv.  
Ms. Aastha Shrestha, Adv.

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

Leave granted.

The appeal is disposed of in terms of the signed  
order.

Pending applications also stand disposed of.

We, therefore, while disposing of this appeal, propose to issue show cause notice to the advocate calling upon him to remain present before this Court.

Issue notice to Mr. Anil Kumar Srivastava, advocate calling upon him to appear before this Court in person on 22<sup>nd</sup> January, 2024.

A copy of this order shall be forwarded along with the notice.

Notice be forwarded to the Registrar General of the High Court of Judicature at Allahabad for effecting service on the advocate.

As the appellants were represented by the said advocate, we direct the appellants to also forward a copy of this order to the learned Advocate.

(ANITA MALHOTRA)  
AR-CUM-PS

(AVGV RAMU)  
COURT MASTER

(Signed order is placed on the file.)