



ITEM NO.7

COURT NO.9

SECTION II

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 (CrI.) No(s).6604-6606/2021

(Arising out of impugned final judgment and order dated 02-08-2017 in CRMBA No.24539/2017 and order dated 11-09-2018 in LA No.1/2018 and in RA No.2/2018 in CRMBA No.24539/2017 passed by the High Court of Judicature at Allahabad)

KAILASH

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

IA No.143473/2021 - COMPLIANCE OF COURTS ORDER

IA No.139947/2021 - EXEMPTION FROM FILING AFFIDAVIT

Date : 12-01-2023 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE SURYA KANT

HON'BLE MR. JUSTICE V. RAMASUBRAMANIAN

For Petitioner(s) Mr. Pradeep Kr.Yadav, Adv.
Mr. Aryan P.Nanda, Adv.
Mr. Vishal Thakur, Adv.
Mr. Sanjeev Malhotra, AOR

For Respondent(s) Mr. Ardhendumauli Kumar Prasad, AAG
Mr. Adarsh Upadhyay, AOR
Ms. Shreya Srivastava, Adv.
Mr. Shaurya Krishna, Adv.
Mr. Ashish Madan, Adv.
Ms. Ananya Sahu, Adv.
Ms. Pallavi Kumari, Adv.

Mr. Rizwan Ahmad, AOR
Mr. Abhishek Kumar, Adv.
Mr. Shakeel Ahmed, Adv.
Mr. Amir Kaleem, Adv.
Mr. Mrinal Kumar Sharma, Adv.

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

1. The application for exemption from filing affidavit is allowed.

2. The petitioner is an accused in FIR No.201 of 2016, under Sections 420, 467, 468, 471 IPC, registered at Police Station Kotwali at Sambhal, District Sambhal, Uttar Pradesh. The petitioner having been arrested in the said case, moved Criminal Miscellaneous Bail Application No.24539/2017 before the High Court of Judicature at Allahabad. The said application was allowed vide order dated 02.08.2017 but conditionally subject to deposit of Rs.9,00,000/- (Rupees nine lakhs) by the petitioner by way of Demand Draft/Pay Order in the Court's name and the said amount was directed to be invested in a nationalised bank and ultimately to be paid to the person concerned, who allegedly suffered wrongful loss. The condition was imposed purportedly on the basis of a statement made on behalf of the petitioner that he was ready to deposit the said amount and also to make an effort to get the sale deed cancelled.

3. The petitioner could not comply with the above-stated condition of deposit of Rs.9,00,000/- (Rupees nine lakhs) and resultantly he continues in custody since 30.06.2016.

4. The petitioner subsequently applied for modification/recall of the above-stated condition but his application was turned down by the High Court vide Order dated 11.09.2018.

5. We have heard learned counsel for the parties and carefully perused the material placed on record.

6. In our considered view, the pre-condition of deposit of Rs.9,00,000/- (Rupees nine lakhs), imposed on the petitioner by the High Court, for his release on regular bail, is totally unwarranted and uncalled for in the peculiar facts and circumstances of this case. The said condition is, accordingly, set aside. As a result, the petitioner is directed to be released on bail forthwith subject to his furnishing bail bonds to the satisfaction of the Trial Court.

7. The Special Leave Petitions stand disposed of accordingly.

8. As a result, pending interlocutory application, if any, also stands disposed of.

(SATISH KUMAR YADAV)
DEPUTY REGISTRAR

(KAMLESH RAWAT)
COURT MASTER