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RAVINDRA PAL SINGH

v.

AJIT SINGH & ANR

(Criminal Appeal No. 748 of 2011)

MARCH 17, 2011

B

**[B. SUNDERSHAN REDDY AND SURINDER SINGH  
NIJJAR, JJ.]**

C *Bail – Complainant's son allegedly shot down by the  
police – CBI after investigation of the matter submitted charge  
sheet against the accused police officials – Bail application  
– Rejected by the Sessions Judge – High Court, however,  
granted bail – On appeal, held: The allegations made against  
the accused-police officials cannot be brushed aside at this  
D stage – CBI has already submitted charge-sheet – High Court  
ought to have taken into consideration the serious nature of  
the allegations, the possibilities of undue influence being  
exerted on the prosecution witnesses at the instance of the  
police officials – High Court committed serious error in  
E granting bail to the accused-police officials – Penal Code,  
1860 – ss. 302, 364, 201 and 120B.*

**The appellant filed a case against the police  
personnel under Section 120B, 364, 302, 201 IPC. It is the  
case of the appellant that his son was illegally picked up  
F by the Dehradun Police and killed in cold blood.  
According to the post mortem report, a total of 29 bullets  
were fired at the deceased, 17 of these bullets hit the  
deceased at a very close range and 9 bullets were fired  
from a maximum distance of 3 feet. The investigation of  
G the case was handed over to the CBI.**

**The first respondent along with other 4 accused  
police officers filed bail application in the Court of  
Sessions Judge. The Sessions Judge rejected the bail**

H

application. The respondents thereafter moved the application for bail in the High Court. The High Court granted bail to the accused. A

In the instant appeals, the appellant has challenged the orders passed by the High Court granting bail to the respondents. The appellant submitted that the High Court has been overly influenced by the fact that the CBI was not represented at the time when the bail application came up for hearing. According to the appellant, presence or absence of the counsel for the CBI was wholly irrelevant for examining the merits of the application for bail. He submitted that all the accused being police officials, the complainant and other witnesses are always under constant threat and there is *prima facie* involvement of all the accused in a case of false encounter. B C D

Allowing the appeals, the Court

HELD:1. The allegations made against the respondents cannot be brushed aside at this stage. The CBI after investigation of the matter has already submitted the charge sheet. According to the prosecution all the accused were involved in the fake encounter in which an innocent young man lost his life. The High court also ought to have taken into consideration the serious nature of the allegations, the possibilities of undue influence being exerted on the witnesses for the prosecution at the instance of the police officials. The High Court committed serious error in granting bail to the respondents. [Para 10] [950-E-F] E F G

CRIMINAL APPELLATE JURISDICTION : Criminal Appeal No. 748 of 2011.

From the Judgment & Order dated 20.10.2010 of the High Court of Uttarakhand at Nainital in Bail Application No. 70 of 2010. H

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WITH

Criminal Appeal Nos, 754, 752, 749, 753, 750, 751 of 2011.

A.T. Rao and A. Subba Rao for the Appellant.

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Gopal Subramaniam, S.G. P.P. Malhotra, ASG, Brijender Chahar, Sushil Kumar, Rajat Khattry, Subramaniam Prasad, Vinay Arora, Aditya Kumar, Vivek Kochar, S.S. Rawat, Sanjay Jain, Shweta Verma and Aman Ahuwallia (for Arvind Kumar Sharma) for the Respondents.

C

The Judgment of the Court was delivered by

**SURINDER SINGH NIJJAR, J.** 1. Leave granted.

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2. In all the appeals, the original complainant has challenged the separate orders passed by the High Court of Uttarakhand at Nainital in Bail Application No.70 of 2010 in SLP(Crl.)No.3520 of 2010, Bail Application No.73 of 2010 in SLP(Crl.)No.3573 of 2010 Bail Application No.75 of 2010 in SLP(Crl.)No.3527 of 2010, Bail Application No. 46 of 2010 in SLP(Crl.)No.3521 of 2010, Bail Application No. 72 of 2010 in SLP(Crl.)No.3529 of 2010, Bail Application No. 45 of 2010 in SLP(Crl.)No.3522 of 2010, Bail Application No. 74 of 2010 in SLP(Crl.)No.3523 of 2010 granted bail to the respondents herein.

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3. It is the case of the appellant that the deceased Ranbir Singh was a MBA student. On 2nd of July, 2009, he had gone to Dehradun in search of a job. On 3rd of July, 2009, he was illegally picked up by the Dehradun Police. At around 3.30 on the same day, he was killed in cold blood by the accused police officials. According to the post mortem report, the police officials fired a total of 29 bullets at the deceased, 17 of these bullets hit the deceased at a very close range and 9 bullets were fired from a maximum distance of 3 feet.

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4. On receiving information from some media persons that

his son had been shot down by the police at Dehradun, the complainant reached Dehradun and tried to contact the police officials. He was, however, threatened by one of the police officer that if he tries to interfere in the matter, he would also be eliminated like his son. A

5. In the appeal, the appellant has given details of the prosecution version which are not necessary for us to recapitulate at this stage. After performing the last rites of his son, the complainant went back to Dehradun and filed a case against the police personnel which was recorded as FIR No.101/2009 dated 6.7.2009 under Section 120B, 364, 302, 201 IPC. On 30th July, 2009, for obvious reasons, the investigation of the case was handed over to the CBI, SCB, Lucknow. B C

6. The first respondent herein along with other 4 accused police officers filed bail application No.991/2009 in the Court of Sessions Judge, 4th FTC Dehradun for bail. D

7. The learned Sessions Judge by order dated 10.12.2009 rejected the bail application. The respondent herein thereafter moved the application for bail in the High Court. A vacation Judge of the High Court by order dated 20th January, 2001 granted bail to the accused. Aggrieved by the aforesaid orders, the complainant, father of the deceased, has moved the petitions by special leave. E

8. We have heard the learned counsel for the parties. F

9. Mr.Malhotra, learned Additional Solicitor General submitted that the High Court committed an error in granting bail without any justification. Learned counsel appearing for the appellant emphasised the seriousness of the offences committed. Learned counsel appearing for the complainant submitted that the High Court has been overly influenced by the fact that the CBI was not represented at the time when the bail application came up for hearing. According to the complainant, G H

A presence or absence of the counsel for the CBI was wholly irrelevant for examining the merits of the application for bail. He submitted that all the accused being police officials, the complainant and other witnesses are always under constant threat. There is prima facie involvement of all the accused in a case of false encounter. According to the prosecution, not only an innocent person has been eliminated but efforts have been made by all concerned to cover up the crime. The High Court merely noticed the submissions made by the counsel for the accused and arbitrarily granted bail. Mr. Sushil Kumar, learned counsel appearing for the respondents has submitted that there is no danger to either the complainant or any of the witnesses, as all the police officials have now been posted out of the district. Learned counsel further submitted that a perusal of the orders passed in the case of some of the accused would show that the bail applications were contested and vehemently opposed by the CBI.

10. We have considered the submissions made by the learned counsel. We are of the considered opinion that the allegations made against the respondents cannot be brushed aside at this stage. The CBI after investigation of the matter has already submitted the charge sheet. According to the prosecution all the accused were involved in the fake encounter in which an innocent young man lost his life. The High Court also ought to have taken into consideration the serious nature of the allegations, the possibilities of undue influence being exerted on the witnesses for the prosecution at the instance of the police officials. In our opinion, the High Court committed serious error in granting bail to the respondents.

11. Keeping in view the facts and circumstances of these cases, we allow the appeals and set aside the impugned orders of the High Court.

B.B.B.

Appeals allowed.

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