

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION
CRIMINAL APPEAL NO. 784 OF 2017
(Arising out of S.L.P. (Criminal) No.10161 of 2016)

B.N. SRIVASTAVA

...APPELLANT

VERSUS

CBI, EOU-IV, NEW DELHI

...RESPONDENT

O R D E R

S.ABDUL NAZEER, J.

1 Leave granted.

2 The application filed by the appellant was allowed by the Special Judge, Prevention of Corruption, C.B.I., Ghaziabad, in Special Case No.05 of 2012, dated 28th April, 2016, subject to the following conditions:

“1 The applicant/accused will not tamper with the evidence during the trial.

2 The applicant/accused will not pressurize/intimidate the prosecution witness.

3 The applicant/accused will personally appear before this trial court on the date fixed.

4 The applicant/accused will surrender/deposit his passport in the court.

Accused/applicant Brijesh Narayan Srivastava (B.N. Srivastava) will furnish two personal bonds of Rs. 50,000/- with two bail sureties each in the like amount to the satisfaction of the court.

Since the allegations against the accused are too serious, causing heavy financial losses to the government, therefore, the accused will deposit Rs. 50 lakh in the court within four weeks from the date of his release on bail.”

3 The appellant challenged the condition imposed in the order for depositing Rupees fifty lakh as precondition while granting bail before the High Court of Judicature at Allahabad in Crl.M.A.No.16764 of 2016. In the said case an interim order was passed on 31st May, 2016 staying the imposition of condition of the deposit of Rupees fifty lakh subject to the appellant depositing Rupees ten lakh within one month from the date of the order. Accordingly, the appellant has deposited a sum of Rupees ten lakh. The High Court by its order dated 11th November, 2016 has dismissed the application filed by the appellant challenging the aforesaid order.

4 We have heard learned counsel for the parties.

5 It is clear that the appellant has already deposited a sum of Rupees ten lakh in terms of an interim order passed by the High

Court. It is also clear from the materials on record that the co-accused, namely, B.N. Yadav and R.K. Singh have been granted bail without a condition being imposed upon them for depositing the amount. The appellant has been in custody for more than four years. In the facts and circumstances of the case, we are of the view that the Special Court was justified in granting the bail to the appellant. However, the condition imposed by the court below for depositing Rupees fifty lakh is onerous. The appellant has already deposited Rupees ten lakh, which is sufficient for granting bail to him. Therefore, direction issued by the trial court for deposit of Rupees fifty lakh for grant of bail is accordingly modified.

6 The appellant shall be released on bail if he satisfies the other conditions imposed by the Special Court in its order dated 28th April, 2016.

7 The appeal is disposed of accordingly.

.....J.
(J. CHELAMESWAR)

.....J.
(S. ABDUL NAZEER)

New Delhi;
April 25, 2017.