

**IN THE SUPREME COURT OF INDIA  
CRIMINAL APPELLATE JURISDICTION**

**CRIMINAL APPEAL Nos. 272-273 OF 2021**  
**(Arising out of SLP (Crl.) Nos. 693-694 OF 2020)**

**DR. RAJESH PRATAP GIRI** ... **APPELLANT**

**VERSUS**

**STATE OF U.P. & ANR.** ... **RESPONDENTS**

**ORDER**

1. Leave granted.
2. The present Criminal Appeals by way of Special Leave arise out of the impugned orders dated 11.12.2019 and 20.12.2019 passed by the Allahabad High Court. By order dated 11.12.2019, the High Court, on an application made by the complainant-respondent no. 2, indicated that the anticipatory bail granted to the appellant-accused by the Trial Court *vide* order dated 21.10.2019 had come to an end with the filing of a charge-sheet, and directed him to surrender and apply for regular bail. The appellant subsequently filed an application for recall/modification of the order dated 11.12.2019 passed by the High Court, which was dismissed by the second impugned order dated 20.12.2019.
3. Heard learned counsel for the appellant, learned counsel appearing on behalf of respondent No.1 – state and the learned counsel appearing on behalf of respondent No.2 – complainant and carefully perused the material placed on record.

4. The learned counsel for the appellant submits that the High Court erred in stating that the anticipatory bail granted to the appellant by the Trial Court came to an end as the charge-sheet had been filed. The learned counsel relied on the recent Five Judge Bench decision of this Court in *Sushila Aggarwal and Ors. v. State (NCT of Delhi) and Anr.*, (2020) 5 SCC 1 to submit that there was no principle of law which required that anticipatory bail once granted automatically comes to an end on the filing of the charge-sheet.

5. While the learned counsel for the State conceded that the law on this point was authoritatively decided by the judgment of this Court in *Sushila Aggarwal (supra)*, he submitted that the same was pronounced subsequent to the impugned orders passed by the High Court. The learned counsel further submitted that after the grant of anticipatory bail the appellant had not appeared before the Trial Court. The counsel for the complainant also reiterated the same.

6. The issue involved in the present case, as to whether anticipatory bail once granted, lapses or comes to an end on the filing of a charge-sheet has been decided by this Court, in the case of *Sushila Aggarwal (supra)*. Ravindra Bhat, J., in his concurring opinion holds as follows:

“77.3. In these circumstances, the **mere fact that an accused is given relief under Section 438 at one stage, per se does not mean that upon the filing of a charge-sheet, he is necessarily to surrender or/and apply for regular bail.** The analogy to “deemed bail” under Section 167(2) with anticipatory bail leads this Court to conclude that **the mere subsequent event of the filing of a charge-sheet cannot compel the accused to surrender and seek regular bail.** As a matter of fact, interestingly, if indeed, if a charge-sheet is filed where the accused is

on anticipatory bail, the normal implication would be that there was no occasion for the investigating agency or the police to require his custody, because there would have been nothing in his behaviour requiring such a step. **In other words, an accused, who is granted anticipatory bail would continue to be at liberty when the charge-sheet is filed**, the natural implication is that there is no occasion for a direction by the court that he be arrested and further that he had cooperated with the investigation.”

*(emphasis supplied)*

7. The same is reiterated in the section headed final conclusions wherein the Court has laid down certain principles on the basis of the two concurring opinions in the following words:

“**91.2.** As regards the second question referred to this Court, it is held that **the life or duration of an anticipatory bail order does not end normally at the time and stage when the accused is summoned by the court, or when charges are framed, but can continue till the end of the trial.** Again, if there are any special or peculiar features necessitating the court to limit the tenure of anticipatory bail, it is open for it to do so.”

*(emphasis supplied)*

8. In view of the above, we are of the opinion that the High Court wrongly held that the anticipatory bail granted to the appellant by the Trial Court *vide* order dated 21.10.2019 had come to an end with the filing of the charge-sheet. We therefore set aside the impugned orders passed by the High Court and restore the anticipatory bail granted to the appellant by the Trial Court *vide* order dated 21.10.2019.

9. With respect to the submission of the learned counsel appearing on behalf of the State, as also the complainant, that the appellant is

not appearing before the trial court, we reiterate that it is always open to the parties to move an application before the concerned Trial Court for appropriate orders regarding the cancellation of anticipatory bail granted to the appellant.

10. The appeals stand disposed of accordingly.

11. As a sequel to the above, pending interlocutory application also stands disposed.

.....J  
(N.V. RAMANA)

.....J  
(SURYA KANT)

.....J  
(ANIRUDDHA BOSE)

**NEW DELHI;  
MARCH 05, 2021**

ITEM NO.13

Court 2 (Video Conferencing)

SECTION II

S U P R E M E C O U R T O F I N D I A  
R E C O R D O F P R O C E E D I N G S

Petition(s) for Special Leave to Appeal (CrI.) No(s).693-694/2020

(Arising out of impugned final judgment and order dated 11-12-2019 in BN No.10812/2019 and order dated 20-12-2019 in CRMA No.151532/2019 in BN No.10812/2019 passed by the High Court of Judicature at Allahabad, Lucknow Bench, Lucknow)

DR.RAJESH PRATAP GIRI

Petitioner(s)

VERSUS

STATE OF U.P. &amp; ANR.

Respondent(s)

IA No.14946/2020 - EXEMPTION FROM FILING O.T.

Date : 05-03-2021 These matters were called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE N.V. RAMANA  
HON'BLE MR. JUSTICE SURYA KANT  
HON'BLE MR. JUSTICE ANIRUDDHA BOSE

For Petitioner(s) Mr. Shish Pal Laler, Adv.  
Mr. Ravi Panwar, AOR

For Respondent(s) Mr. Rohit K. Singh, AOR  
Mr. Abhishek Singh, Adv.  
Mr. Narender Singh, Adv.

Mr. Avijit Bhattacharjee, AOR

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

The Court is convened through Video Conferencing.

Leave granted.

The appeals stand disposed of in terms of the signed order.

As a sequel to the above, pending interlocutory application also stands disposed of.

(SATISH KUMAR YADAV)  
DEPUTY REGISTRAR

(RAJ RANI NEGI)  
DEPUTY REGISTRAR

(Signed order is placed on the file)