

ITEM NO.8 Court 6 (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 (Crl.) No.8503/2021

(Arising out of impugned final judgment and order dated 09-09-2021 in CRMA No.10434/2021 passed by the High Court of Judicature at Allahabad)

HAZI MUSHAHID

Petitioner(s)

VERSUS

THE STATE OF UTTAR PRADESH & ANR.

Respondent(s)

Date : 08-02-2022 This petition was called on for hearing today.

CORAM : HON'BLE MR. JUSTICE SANJAY KISHAN KAUL
HON'BLE MR. JUSTICE M.M. SUNDRESH

For Petitioner(s) Mr. Pardeep Gupta, Adv.
Mr. Parinav Gupta, Adv.
Ms. Mansi Gupta, Adv.
Mr. Krishna Kumar, Adv.
Ms. Nandani Gupta, Adv.
Dr. (Mrs.) Vipin Gupta, AOR

For Respondent(s) Mr. Rauf Rahim, AOR
Mr. Ali Asghar Rahim, Adv.

Mr. R.K. Raizada, Sr. Adv, Ld. AAG
Mr. Ajay Vikram Singh, AOR
Mrs. Priyanka Singh, Adv.
Mr. Chandra Shekhar, Adv.
Mr. Kartik Yadav, Adv.

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

Leave granted.

We may notice that an adjournment letter has been circulated

by respondent No.1. On our query, learned counsel for the State submits that an affidavit has been filed by the Senior Consultant of the District Hospital in pursuance to the queries of this Court which arose on 18.1.2022 on the submission of learned counsel for the complainant. He submits that an adjournment has been sought to find out from the State Government as to why there was no surgeon in the District Hospital, Sambhal, Uttar Pradesh.

It is not disputed before us that the role of the appellant is same as the other accused who have been granted bail. If, there was some parity the appellant would be entitled to bail.

We have also perused the affidavit filed by the Senior Consultant which acknowledges that no surgeon was posted or attached to the District Hospital, Sambhal from 10.1.2018 to 07.6.2020. On 08.6.2020, Dr. Pradeep Agarwal, surgeon was again attached with the District Hospital, Sambhal. The affidavit states that the Chief Medical Superintendent/ Chief Medical Officer of the District has been time and again writing to the Government for filling the vacant posts in the District Hospital, Sambhal, such a request is stated to have been last made on 21.6.2019. A perusal of the form-2 filed along with affidavit shows that there are many vacant posts in District Hospital, Sambhal. The position is same qua both male and female doctors/attendants. The vacancy position is stated to be 62% and 70% respectively. This is a very disturbing scenario and we do not even know whether this is peculiar to the district in question or whether it is a larger prevalent problem. There are 75 districts in Uttar Pradesh.

We, however, do not want to detain the aspect of bail entitlement of the appellant and thus grant bail to the appellant on terms and conditions to the satisfaction of the trial Court. We, however, retain the matter on the second aspect for the State to file an appropriate affidavit. In view what has been set out, we are inclined to grant larger time period wherein the position for all 75 District Hospitals should be set forth with a chart showing what is the existing position of posts occupied against total

posts. We grant six weeks' time for the said purpose.

List for further proceedings qua the aspect of the vacancy position in the District Hospitals of Uttar Pradesh on 29th March, 2022.

(RASHMI DHYANI)
COURT MASTER

(POONAM VAID)
COURT MASTER