

CASE NO.:
Appeal (crl.) 685 of 2006

PETITIONER:
Mayuram Subramanian Srinivasan

RESPONDENT:
C.B.I.

DATE OF JUDGMENT: 16/06/2006

BENCH:
Altamas Kabir

JUDGMENT:
J U D G M E N T
With

Crl. Appeal No. 687 of 2006
Crl. Appeal No. 688 of 2006

ALTAMAS KABIR, J.

I have had the privilege of going through the judgment prepared by my learned brother and I fully agree with the reasoning and the ultimate decision rendered therein. I would, however, like to dilate on one of the points urged by Ms. Jaiswal, which has been briefly touched upon in the judgment.

It has been submitted that the statutory provisions of Section 389 (3) Cr.P.C., has an overriding effect over the Supreme Court Rules and hence once bail has been granted to a convicted person by the trial court, this Court cannot insist that he should surrender to the sentence in terms of Rule 13A before his appeal can be registered.

While such a submission is attractive, it does not stand scrutiny for the simple reason that Sub-section (3) of Section 389, Cr.P.C. empowers the trial court to release a convicted person on bail for such period as will afford him sufficient time to present an appeal and obtain orders of the Appellate Court under Sub-section (1), namely, release on bail, and it is only for such period that the sentence of imprisonment shall be deemed to be suspended.

The basic fallacy of Ms. Jaiswal's submission is that it overlooks the question that grant of bail in the appeal presupposes surrender by the convicted person.

The provisions of Section 389 Cr.P.C. and that of the Supreme Court Rules, 1966, are independent provisions and will have to be considered on their own standing.

The appeals can, therefore, be posted only after the appellants surrender and proof of surrender is filed.