

IN THE SUPREME COURT OF INDIA
CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPEAL NO. 1676 OF 2008

[Arising out of SLP(Crl.) No. 3239/2008]

HASAN **... APPELLANT(S)**

:VERSUS:

STATE OF U.P. AND ANR. **... RESPONDENT(S)**

ORDER

Leave granted.

The first informant is before us aggrieved by and dissatisfied with the judgment and order dated 8.2.2008 passed by the High Court of Judicature at Allahabad granting bail in favour of the second respondent herein.

Learned counsel for the appellant submits that keeping in view the statements made by Smt. Munni as also the order of the learned Session Judge and furthermore in view of the fact that the second respondent had also been proceeded against for having committed cognizable offence, the High Court should have not granted bail in his favour.

Learned counsel for the second respondent on the other hand, contended that the medical evidence does not support the prosecution case.

Be that as it may, in view of the fact that the High Court in passing the impugned judgment has not assigned any reasons, whatsoever, we are of the opinion that the impugned judgment cannot be sustained.

We are saying so as the learned Additional Government Advocate, appearing on behalf of the State, raised a contention before the High Court that respondent No.2 was a person having criminal antecedents. The High Court, in our opinion, should have considered that aspect of the matter as also other materials which have been brought on record.

For the reasons aforementioned, the impugned judgment is set aside and the matter is directed to be heard afresh by the High Court. The High Court shall take up this matter for hearing either on 10th November, 2008 or any other date as may be notified.

It is made clear that the second respondent shall remain personally present before the appropriate Bench of the High Court on 10th November, 2008 or any other date fixed by the High Court.

The appeal is allowed with the aforementioned observation and direction.

The Registry may transmit a copy of this order to the Registrar General of the Allahabad High Court for compliance.

**.....J
(S.B. SINHA)**

**.....J
(CYRIAC JOSEPH)**

**NEW DELHI,
OCTOBER 17, 2008.**