

3. These two appeals take exception to the orders dated 24th January, 2023 and 13th April, 2023 passed by the learned Division Bench of High Court at Calcutta¹ whereby the respondents in both the appeals were granted bail in connection with FIR bearing No. RC0562021S0051 dated 16th December, 2021 registered at CBI/SCB/Kolkata Police Station for the offences punishable under Sections 143, 144, 147, 148, 149, 427, 326, 376 read with 511 and 34 of Indian Penal Code, 1860².

4. Succinctly stated, the facts as narrated in the FIR are that the incident in question took place on 2nd May, 2021 just after the announcement of results of the Assembly elections in the State of West Bengal. The complainant claims to be a follower of Hindu religion. It is alleged that the majority of the villagers residing in the village of the complainant, namely, Gumsima, PO Jatra belong to the other community and are the supporters and workers of the ruling dispensation. The complainant alleged that being in minority, he was unable to carry on his religious pursuits in the village. The

1 Hereinafter, referred to as "High Court".

2 Hereinafter, referred to as "IPC".

complainant and few more villagers gathered courage and started campaigning for the Bharatiya Janta Party prior to the Assembly elections in the State of West Bengal, thereby drawing the wrath of the supporters of the ruling dispensation who threatened that he and his family members would be harmed. Before the elections, a bomb was thrown at his tea stall. On the evening of 2nd May, 2021 i.e., the date on which election results were announced, a gang of miscreants led by Sekh Mahim s/o Sekh Jalil, a leader belonging to the ruling dispensation from village Gumsima, PO Jatra gathered together and started throwing bombs towards the house of the complainant. It is alleged that around 40 to 50 miscreants, who were heavily armed, launched an offensive on his house. The assailants were carrying weapons like sticks, knives, iron rods, revolvers, etc. and started assaulting the complainant and his family members. The complainant's house was totally vandalized and looted by the accused persons. The wife of the complainant was grabbed by hair, her clothes were snatched away, and she was forcibly undressed. The assailants indulged in

molesting the complainant's wife by inappropriately touching her private parts. In order to save herself, the complainant's wife poured kerosene oil on her person and threatened that she would set fire to herself on which the miscreants left the spot. The complainant, his wife and their two children somehow escaped from the village to save their lives and approached the Sadaipur Police Station on the next day, to lodge a complaint in respect of the incident dated 2nd May, 2021. The officer-in-charge of the police station did not accept the complaint and advised the complainant to leave the village to save his and his family's life.

5. This Court has been apprised that numerous incidents with like allegations took place in the aftermath of the election results in the State of West Bengal. It is a common grievance that the local police refused to lodge the FIRs on which a number of writ petitions³ came to be filed in the High Court at Calcutta. The High Court by order dated 19th August, 2021 directed the Central Bureau of Investigation⁴ to investigate all the cases where the

³ WPA(P) Nos. 142, 143, 144, 145, 146, 147, 148, 149, and 167 of 2021.

⁴ Hereinafter, referred to as "CBI".

allegations involved murder and/or crime against women regarding rape/attempt to rape. Acting in furtherance of the above direction, FIR bearing No. RC0562021S0051 dated 16th December, 2021 came to be registered at CBI/SCB/Kolkata Police Station for the offences punishable under Sections 143, 144, 147, 148, 149, 427, 326, 376 read with 511 and 34 of IPC in connection with the incident which took place at the house of the complainant.

6. The accused respondents in both the appeals came to be arrested on 3rd November, 2022 and were remanded to judicial custody. After investigation, a charge-sheet has been filed by the CBI against a number of assailants including the respondents herein for the offences punishable under Sections 34, 148, 149, 326, 354, 511 read with 376D and 450 of IPC.

7. The respondents applied for bail⁵ in the High Court which accepted their applications *vide* orders dated 24th January, 2023 and 13th April, 2023 which are subject matter of challenge in these appeals by special leave.

⁵ CRM(DB) No. 56 of 2023 and CRM (DB) No. 1249 of 2023.

8. We have heard and considered the submissions advanced by Mr. Vikramjeet Banerjee, learned Additional Solicitor General representing the appellant-CBI and Mr. S. Hariharan, learned counsel representing the accused respondents.

9. Mr. Vikramjeet Banerjee, learned Additional Solicitor General representing the appellant-CBI submitted that the High Court granted bail to the respondents on totally extraneous considerations. The fact remains that there is no possibility of a fair trial being conducted because the respondents are politically influential and they even managed to prevent the registration of the FIR in respect of such ghastly crimes. The FIR in the present case could be registered that too by the CBI only after the High Court intervened in the matter and passed directions to register the FIRs *vide* judgment dated 19th August, 2021. The CBI was directed to investigate all the cases where the allegations involved the crime of murder and/or crime against women regarding rape/attempt to rape. In furtherance of the directions given by the High Court, the CBI registered the instant FIR and with

great degree of difficulty, the accused persons were arrested and charge-sheet could be filed in the matter.

10. He urged that the respondents are influencing the trial and are not letting the proceedings to be continued. On numerous dates of hearing, the accused respondents have failed to appear before the trial Court, which is struggling to even frame the charges against the accused respondents. He further submitted that the accused respondents were specifically named in the statement of the complainant and the victim lady, and as such, looking to the nature and gravity of the allegations and the propensity of the accused respondents to abscond and/or adversely affect the proceedings of the trial and the imminent probability of the witnesses being threatened and tampered, the High Court should have refrained from granting bail to the accused respondents.

11. *Per contra*, learned counsel representing the respondents, being the accused persons, opposed the submissions advanced by Mr. Banerjee. He

contended that the High Court has analysed the factual matrix in an *apropos* manner while distinguishing the case of the respondents and enlarging them on bail. The fact remains that neither in the highly belated FIR nor in the statement of the witnesses recorded by the Investigating Officer, any specific role has been assigned to the respondents herein and thus, there is no justification for entertaining these appeals and interfering with the well-reasoned order passed by the High Court granting bail to the respondents. He thus, implored the Court to dismiss the appeals.

12. We have given our thoughtful consideration to the submissions advanced at the bar and have gone through the material placed on record.

13. Law is well-settled by a catena of decisions of this Court that the considerations for grant of bail and cancellation thereof are entirely different. Bail once granted to the accused should normally not be interfered with/cancelled unless there exist circumstances giving rise to an inference that the bail has been procured by practicing fraud or mis-

representation; that the allegations against the accused are so grave that the same have an adverse impact on the society at large and shake the conscience of the Court; that releasing the accused respondents on bail is likely to create a sense of fear and terror amongst the society or that the accused while on bail may abscond or tamper with the prosecution evidence.

14. Having regard to the facts enumerated above, we feel that the present one is a case wherein the allegations against the accused respondents are so grave that the same shake the conscience of the Court. Furthermore, there is an imminent propensity of the accused persons adversely affecting the proceedings of the trial. It is undisputed that the complainant approached the Sadaipur Police Station on 3rd May, 2021 for registering a complaint in respect of incident dated 2nd May, 2021, but the officer-in-charge refused to register the FIR conveying that he and his family members should go away from the village for their own safety. Apparently, this approach of the local police lends credence to the apprehension of the

complainant about the clout and influence which the accused respondents bear over the locality and even the police.

15. The FIR in the present case came to be registered only upon intervention by the High Court *vide* judgment dated 19th August, 2021 in a batch of writ petitions, directing the CBI to investigate all the cases where the allegations involve crime of murder and/or crime against women regarding rape/attempt to rape.

16. Mr. Banerjee had submitted that even the officers of the CBI were not receiving the required cooperation from the local police and thus, culmination of the investigation took almost one and a half years.

17. Having gone through the contents of the FIR, we find that there is hardly any scope for distinguishing the case of the respondents and that of the accused to whom the specific allegation of disrobing the complainant's wife is attributed. The concerted attack on the complainant's house was launched on the day of election results with the sole

objective of wreaking vengeance because he had supported the saffron party. This is a grave circumstance which convinces us that the accused persons including the respondents herein were trying to terrorize the members of the opposite political party whom the accused respondents were supporting. The reprehensible manner in which the incident was perpetrated shows the vengeful attitude of the accused persons and their avowed objective to subdue the supporters of the opposite party into submission by hook or by crook. The dastardly offence was nothing short of a grave attack on the roots of democracy.

18. There is *prima facie* material to establish that the accused persons formed an unlawful assembly and launched a concerted attack on the house of the complainant vandalising the same and looting away the household articles. The complainant's wife was viciously pulled by the hair and was disrobed. The accused persons were about to assault her sexually when the lady gathered courage to pour kerosene on her body and gave a threat of self-immolation on which the accused persons including

the respondents herein fled away from the complainant's house.

19. The charge-sheet has been filed way back in the year 2022 and till date, the trial has not budged an inch. The prosecution has alleged that this delay is mostly attributable to non-cooperation by the accused persons including the respondents herein which fact is palpably established from record.

20. In this background, we feel that there is no possibility of a fair and impartial trial being conducted, if the accused respondents are allowed to remain on bail. Thus, on both counts, i.e., (i) the nature and gravity of the offence which is nothing short of an attack on the roots of democracy and (ii) the imminent likelihood of the accused adversely affecting a fair trial, the bail granted to the accused respondents has to be cancelled.

21. Consequently, the impugned orders dated 24th January, 2023 and 13th April, 2023 deserve to be and are hereby reversed. The bail granted to the accused respondents by the High Court is accordingly cancelled. The accused respondents

shall surrender before the trial Court within two weeks from today, failing which, the trial Court shall adopt coercive measures to secure their presence. Upon surrendering/being arrested, the accused respondents shall be remanded to custody.

22. The trial Court shall expedite the proceedings and will try to conclude the trial within a period of six months from the date of receipt of a copy of this order. In case, any stay orders have been passed on the proceedings before the trial Court by any higher forum including the High Court, the same shall be deemed to have been vacated. The Home Secretary, State of West Bengal and the Director General of Police, State of West Bengal shall ensure that proper protection is provided to the complainant and all other material witnesses so that they can freely appear and depose at the trial without any fear or apprehension. Any violation of the above direction may be reported to this Court by the appellant-CBI or the complainant for suitable action.

23. Additionally, the observations made in this judgment and in the orders of the High Court shall not prejudice the trial in any manner.

24. The appeals are allowed in these terms.

25. Pending application(s), if any, shall stand disposed of.

.....**J.**
(VIKRAM NATH)

.....**J.**
(SANDEEP MEHTA)

NEW DELHI;
May 29, 2025.