

**(1990) 03 AHC CK 0059****Allahabad High Court****Case No:** Criminal Misc. Bail Application No. 2430 of 1990

Girjesh

APPELLANT

Vs

State

RESPONDENT

**Date of Decision:** March 14, 1990**Acts Referred:**

- Penal Code, 1860 (IPC) - Section 304, 498A

**Citation:** (1990) 14 ACR 462**Hon'ble Judges:** S.I. Jafri, J**Bench:** Single Bench**Advocate:** A.N. Bhargava, for the Appellant;**Final Decision:** Disposed Of**Judgement**

S.I. Jafri, J.

In the instant case the applicant who is indicted of the offences u/s 498A/304 IPC P.S. Iglas District Aligarh, was admitted to bail by this Court on 19-2-1990 on the ground that the applicant was then awaiting his committal to the court of sessions, despite a lapse of 13 months. While granting bail to the applicant, the C.J.M. Aligarh was also directed to appear before the court today at 1.30 P.M. in my chamber for explaining the delay.

2. Heard the Learned Counsel for the State Sri S.C. Srivastava. Learned Counsel for the applicant is also present before me.

3. In the wake of my order, Sri V.B. Singh, C.J.M. Aligarh has appeared before me. As stated by him, he has recently been posted as C.J.M. at Aligarh only on 30th January 1990 and the matter relates to the period of his predecessor Sri G.K. Chaturvedi, now posted as Civil Judge at the same station. The Chief Judicial Magistrate has placed before me a photo copy of the order dated 12-12-1989 thereby his predecessor had committed the applicant and others to the Court of Sessions. I have again glanced through my order dated 19-2-1990 wherein on the basis of the

submissions advanced by the Learned Counsel and also in view of the averments in the affidavit filed by the pairokar, it was mentioned that despite a lapse of 13 months the applicant was still awaiting his committal to the court of Sessions. In this view of the matter, when the order committing the applicant to the court of sessions has already been passed much before the instant application for bail on behalf of the applicant was taken up and disposed of, I feel that it is a clear case in which deception has been played on this Court in obtaining bail order and the pairokar has perjured himself in averring that applicant has not been committed to the Court of Sessions. I may mention that if the court finds that any order has been obtained by playing deception on the court, it is within its competence to recall the order so much so without affording any opportunity to the accused of hearing in that behalf. It is really shocking that this deception has escaped the notice of the Learned Counsel whatever be the reasons.

4. Upon a conspectus of the acts and circumstances, I recall my order dated 19-2-1990 admitting the applicant to bail and cancel the bail granted to him by my aforesaid order. I further direct the C.J.M. Aligarh to issue non-bailable warrants against the applicant as to secure him to the custody of the court. Office is directed to issue a Dasti copy of this order to the C.J.M. for immediate compliance.

5. Office is also directed to issue notices to the Pairokar/deponent namely Dheeraj Lal Sharma son of Sri Ram r/o of Village Nahal P.S. ♀Atrauli Distt. Aligarh to appear before this Court on 27-3-1990 and to show cause as to why action for perjury be not taken against him. Learned Counsel for the applicant be also informed to be present on the date fixed as to explain the circumstances in which he had advanced the arguments that the applicant has been languishing in jail for the last 13 months awaiting his committal to the court of Sessions.

6. List this case for further orders on 29-3-1990.