

**State Vs. Umesh Ghai**

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**SooperKanoon Citation :** [sooperkanoon.com/702329](http://sooperkanoon.com/702329)

**Court :** Delhi

**Decided On :** Aug-08-2003

**Reported in :** 2003VIIIAD(Delhi)481; 108(2003)DLT190; I(2004)DMC64; 2003(71)DRJ528; 2004(1)JCC8

**Judge :** S.K. Agarwal, J.

**Acts :** Code of Criminal Procedure (CrPC) - Sections 439(2); Indian Penal Code (IPC) - Sections 34, 304 and 498A

**Appeal No. :** Crl. M. (M) No. 2360/2000

**Appellant :** State

**Respondent :** Umesh Ghai

**Advocate for Def. :** K.B. Andley, Senior Adv. and ; Anupam Sharma, Adv.

**Advocate for Pet/Ap. :** Sima Gulati, Adv

**Judgement :**

**S.K. Agarwal, J.**

1. By this petition under Section 439(2) Cr.P.C. petitioner/State is seeking cancellation of bail of respondent (Umesh Ghai) in case FIR No.350/1999, u/Ss. 304/498-A/34 IPC, P.S. Kirti Nagar, Delhi.

2. The respondent is the husband of the deceased. By order dated 26.2.2000 passed by the Court of Sh. L.D. Mual, ASJ, he was released on bail. Learned Special Public Prosecutor argued that learned ASJ gravely erred in appreciating the evidence in detail while granting bail and the order runs into ten pages. Learned counsel argued that at the time of granting bail, evidence could not be appreciated which can be done only at the end of the trial. However, she submits that three and a half year has already been passed after the impugned order is passed and in view of long lapse of time, she would not at this stage press cancellation of bail on merits but would only pray for suitable directions so that the observations do not affect the decision on merits of the case and for expediting the trial.

3. Law in this regard is well settled. Giving reasons while granting bail, is different from discussing merits or demerits. At the stage of granting bail, a detailed examination of evidence and elaborate discussion on the merits of the case has not to be undertaken, which the learned Additional Sessions Judge has done in the instant case. This has to be avoided. However, it does not mean that while granting bail some reasons for prima facie concluding why bail was granted are not to be recorded. Reference in this regard may be made to the Supreme Court decision in *Puran v. Rambilas and another*, : 2001 CriLJ2566 .

4. In view of the above, the observations made on the merits of the case, in the impugned order dated 26.2.2000 while enlarging the respondent on bail are hereby set aside. The learned trial court would decide the matter on the evidence available on record uninfluenced by any observation made in the impugned order.

5. It may also be noticed here that so far only 4 witnesses have been examined out of 36 witnesses cited by the prosecution. Learned Special Prosecutor for State submits that respondent has been deliberately delaying the trial. In the facts and circumstances of the case, trial court is directed to expedite the trial and take up this case on day-to-day basis as far as possible and to conclude the prosecution evidence within six months from the next date fixed. It is needless to observe that parties shall co-operate for expeditious trial of the case and in case it is found that the accused is delaying the trial, the prosecution may approach the trial court for

cancellation of bail order.

6. With the above directions, petition stands disposed of.

7. dusty to both the parties.

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