

[SC] CrPC S. 439 - Bail - At the stage of granting bail the Court is not required to enter into a detailed analysis of the evidence in the case. Such an exercise may be undertaken at the stage of trial - Once bail has been granted, the Appellate Court is usually slow to interfere with the same as it pertains to the liberty of an individual. [Para 10, 11]

Held,

S. 439 - Bail - Case relates to whether the High Court has exercised the discretionary power under Section 439 CrPC in granting bail appropriately - Such an assessment is different from deciding whether circumstances subsequent to the grant of bail have made it necessary to cancel the same. The first situation requires the Court to analyze whether the order granting bail was illegal, perverse, unjustified or arbitrary. On the other hand, an application for cancellation of bail looks at whether supervening circumstances have occurred warranting cancellation.

CrPC S. 439 Bail - Reasonings - Judgments - Reasoning is the life blood of the judicial system. That every order must be reasoned is one of the fundamental tenets of our system - Court has consistently upheld the necessity of reasoned bail orders, with a special emphasis on matters involving serious offences - Apart from the general observation that the facts and circumstances of the case have been taken into account, nowhere have the actual facts of the case been adverted to - There appears to be no reference to the factors that ultimately led the High Court to grant bail - The impugned order passed by the High Court is cryptic, and does not suggest any application of mind - There is a recent trend of passing such orders granting or refusing to grant bail, where the Courts make a general observation that “the facts and the circumstances” have been considered - No specific reasons are indicated which precipitated the passing of the order by the Court - Such a situation continues despite various judgments of this Court wherein this Court has disapproved of such a practice.

Held,

In the present case, respondent no. 2 accused has been accused of committing the grievous offence of rape against his young niece of nineteen years. The fact that the respondent no. 2 accused is a habitual offender and nearly twenty cases registered against him has not even found mentioned in the impugned order. Further the High Court has failed to consider the influence that the respondent no. 2 accused may have over the prosecutrix as an elder family member. The period of imprisonment, being only three months, is not of such a magnitude as to push the Court towards granting bail in an offence of this nature.

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