

**Court No. - 43**

**Case :- CRIMINAL APPEAL No. - 195 of 2019**

**Appellant :- Babu Ram**

**Respondent :- State of U.P.**

**Counsel for Appellant :- Amit Kumar Srivastava, Krishna Gopal**

**Counsel for Respondent :- G.A.**

**Hon'ble Ashwani Kumar Mishra, J.**

**Hon'ble Dr. Gautam Chowdhary, J.**

**(Order on Bail Application)**

Bail application has been filed on behalf of accused appellant Babu Ram, who has been convicted in Sessions Trial No.547 of 2014 (State Vs. Babu Ram), under Sections 364, 302, 201 IPC, arising out of Case Crime No.714 of 2014, P.S. Dataganj, District Budaun and the maximum sentence awarded to him is rigorous life imprisonment.

As per the informant his daughter got married to the accused on 15.5.2014. About twenty days prior to the incident the informant's daughter had returned to her home. On 4.8.2014 at about 11.00 in the morning accused son-in-law called on phone. The informant's daughter after talking to the accused asked him to meet her at Dataganj. Informant's daughter alongwith his younger sister left on a bicycle to meet the accused appellant, whereafter they did not return. Five days later their dead-body was found in an agricultural field. Relying upon the testimony of witnesses, the accused appellant has been convicted and sentenced in the above matter.

Learned counsel for the appellant submits that this is a case based on circumstantial evidence in which chain of circumstance is not complete. It is further submitted that neither any call detail report has been produced to show that any telephone call was received from the accused appellant nor there is any witness, who saw the accused appellant in the company of the deceased.

So far as the recovery of dead-body is concerned, it is pointed out that though prosecution asserts that it was on the pointing out of the accused appellant that the dead-body was recovered but PW-7 in his statement has clearly admitted that when he reached the spot alongwith the accused appellant the police of a different police station alongwith large number of persons had already gathered there. Even in the inquest the dead-body is said to have been

recovered on the information of one Ramendra and there is no reference to the accused appellant as being the person on whose pointing out the dead-body has been recovered. It is argued that even Sessions Court has not relied upon this circumstance against the accused. It is also argued that the identity of the dead-body has also not been established and it is not clear as to whether the skeleton recovered is that of a male or a female. It is further argued that merely on the strength of suspicion the accused appellant has been convicted and sentenced in the above matter. Accused appellant has no criminal history and has already undergone incarceration of more than ten years together with remission. Submission is that hearing of the appeal may take sufficiently long since paper book has not been prepared, as such he be enlarged on bail.

Learned AGA has opposed the prayer made for grant of bail and submits that the dead-body was recovered from the sugarcane field belonging to the appellant's maternal uncle.

Be that as it may, it is admittedly a case based on circumstantial evidence. It is undisputed that there is no call detail record and the evidence of alleged recovery of dead-body on the pointing out of the accused appellant requires careful analysis in view of the testimony of PW-7 as well as the inquest papers. Various other submissions raised on behalf of the accused appellant would also require careful consideration at the time of hearing of the appeal. Considering the period of incarceration undergone by the accused appellant, as also the fact that the accused appellant has no criminal history, and hearing of the appeal may take sufficiently long since paper book has not been prepared, without further commenting upon the merits of the case, we are of the view that the appellant/applicant is entitled to be released on bail.

Let the accused applicant/appellant – Babu Ram be released on bail in the above case on furnishing personal bond and two sureties each in the like amount to the satisfaction of the Chief Judicial Magistrate concerned, subject to furnishing undertaking that he will co-operate in the hearing of the appeal.

50 % of the fine imposed shall be deposited within six weeks after release and the remaining fine shall remain suspended.

On acceptance of bail bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on the record of this appeal.

Office is directed to prepare paper book and list this appeal for hearing on its due turn.

**Order Date :- 4.10.2024**  
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