

Court No. - 49

Case :- CRIMINAL APPEAL No. - 415 of 2019

Appellant :- Rambabu

Respondent :- State Of U.P.

Counsel for Appellant :- Pusp Raj Singh

Counsel for Respondent :- G.A.

Hon'ble Krishna Pratap Singh,J.

Heard Sri D.D. Yadav, holding brief of Sri Pusp Raj Singh, learned counsel for the applicant as well as learned AGA for the State and perused the record.

A prayer for bail has been made by the appellant/applicant in this criminal appeal, which has been filed against the judgement and order dated 03.01.2019 passed by the learned Special Judge (Gangster Act)/Additional Session Judge-V, Banda in G.S.T. No.05 of 2015, (State vs. Pappu @ Sadashiv and others) arising out of Case Crime No.134 of 2012 under Section 2/3 U.P. Gangster Act, Police Station Baberu, District Banda, whereby the appellant/applicant has been convicted and sentenced to 10 years rigorous imprisonment and a fine of Rs. 10,000/- and in default thereof the appellant shall further undergo imprisonment for five months.

It is argued by the learned counsel for the appellant/applicant that there is only one case shown in the gang chart, against the appellant/applicant, in which he has been acquitted and the same has been properly explained in para Nos.4 and 5. It has further submitted that applicant has been falsely implicated in the present case due to police rivalry. He is not a member of any gang. There is no prospect of trial of the present case being concluded in near future due to heavy dockets. He is not a previous convict. He was on bail during trial. The appellant/applicant has never misused the liberty of bail. It is also contended that due to heavy pendency of appeals, this appeal is not likely to be heard in near future. The appellant is in jail since 03.01.2019

Learned AGA has opposed the prayer for bail and has submitted that the lower court has based its conviction on evidence available on record. Hence, the bail application is liable to be rejected.

Having heard the submission made by learned counsel for the appellant/applicant and perused the material brought on record, this Court

is of the view that appellant-applicant is entitled to be released on bail during the pendency of criminal appeal before this Court.

Let the **appellant/applicant Rambabu**, convicted and sentenced in G.S.T. No.05 of 2015 (State vs. Pappu @ Sandashiv and others) arising out of Case Crime No.134 of 2012 under Section 2/3 U.P. Gangster Act, Police Station Baberu, District Banda, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

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

The amount of fine shall be deposited within one month from the date of actual release of appellant/applicant.

L.C.R. stands received.

List in due course.

Order Date :- 8.2.2019

Pr/-