

Court No. - 48

Case :- CRIMINAL APPEAL No. - 440 of 2020

Appellant :- Raju @ Raj Dubey

Respondent :- State of U.P.

Counsel for Appellant :- Rakesh Kumar Rathore, Sanjeev Kumar

Counsel for Respondent :- G.A.

Hon'ble Siddhartha Varma, J.

Hon'ble Manish Kumar Nigam, J.

Criminal Misc. Bail Application No.1 of 2020 :

Heard learned counsel for the applicant and learned A.G.A. appearing for the State.

The custody certificate dated 21.8.2022 placed today be kept on record.

The instant application has been filed under Section 389 Cr.P.C. to suspend the sentence of conviction and to release the applicant on bail in Special Trial No.56 of 2012 arising out of Case Crime No.237 of 2012, under Sections 364, 396, 201 and 412 of Indian Penal Code, Police Station - Kurawali, District - Mainpuri.

It is the contention of learned counsel for the appellant that the appellant-applicant is innocent and has been falsely implicated in the case. Relying upon the custody certificate, it has been stated that the applicant has actually remained in jail for 8 years and 9 months and with remission he has remained in jail for about 10 years. It is also submitted that the appellant has no criminal history and that the conduct and behaviour of the appellant in jail was good and to the satisfaction of the jail authorities. Still further, learned counsel for the appellant submits that since the appeal is not likely to be heard and decided expeditiously in the near future,

the applicant is, therefore, entitled to be released on bail.

Learned counsel for the appellant has placed reliance on the decision of Supreme Court rendered in **Saudan Singh vs. State of U.P.** decided on 25.2.2022 in **Criminal Appeal No. 308 of 2022 [@SLP (CrI.) No. 4633 of 2022]** and **Suleman vs. State of U.P. : Criminal Appeal No.491 of 2022** decided on 9.5.2022.

In rebuttal, learned AGA has opposed the bail application but he could not deny the facts that the applicant has remained in jail for a fairly long period and that he has no criminal history.

We have perused the judgement of the lower court with the assistance of the learned counsel for the parties. We are of the opinion that the sentence awarded by the trial court be kept in abeyance in respect of applicant and the applicant be enlarged on bail.

Consequently, the prayer for bail is granted. The bail application is allowed.

Without expressing any opinion on the merit of the case, let the applicant-**Raju alias Raj Dubey**, convicted and sentenced in the aforesaid case, be released on bail on his furnishing personal bonds with two sureties each in the like amount to the satisfaction of the court concerned.

The realization of fine shall remain stayed till the decision of the appeal.

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

Office to inform the concerned Jail Superintendent through Chief Judicial Magistrate concerned to ensure compliance of the order.

The conditions as have been made applicable by Hon'ble Supreme Court in the case **In Re : Policy Strategy For Grant of Bail passed in SMWP (Criminal) No.4 of 2021** by order dated 31.1.2023 be complied with.

Order on Appeal

Order sheet indicates that paper book has been prepared. Learned counsel for the parties may obtain their copies of the paper book from the office.

List this appeal on 20.12.2023 for final hearing.

Order Date :- 16.5.2023

GS

(Manish Kumar Nigam, J.) (Siddhartha Varma, J.)