

**Court No. - 83**

**Case :-** JAIL APPEAL No. - 65 of 2023

**Appellant :-** Dharm Singh

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

**Counsel for Appellant :-** From Jail, Radheshyam Yadav

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

**Hon'ble Sanjay Kumar Pachori, J.**

Sri Radheshyam Yadav, learned amicus curiae for the appellant and Sri Moti Lal, learned A.G.A for the State are present.

The present jail appeal is admitted on 10.05.2023.

The present jail appeal has been preferred to set-aside the judgment and orders dated 22.02.2021 and 23.02.2021 passed by Additional Sessions Judge Court No. 9, Agra in Session Trial No. 346 of 2018 arising out of Case Crime No. 362 of 2017, by which the trial court convicted the appellant under Section 307 of I.P.C. and sentenced him under Section 307 of I.P.C., to undergo seven years rigorous imprisonment with fine of Rs. 5,000/-, and in default of payment of fine, three months additional imprisonment.

Learned amicus curiae for the appellant submits that the impugned order has been passed without appreciating the evidence in right perspective and against the weight of evidence. It is further submitted that the on the basis of same set of evidence other co-accused Pappu and Ram Babu were acquitted by the trial court. It is further submitted that the appellant has completed more than 5 years sentenced out of 7 years maximum imprisonment. In support of his submission, he relied upon the judgment of Apex Court in **Satender Kumar Antil Vs. Central Bureau of Investigation & Another, (2021) 10 SCC 773.**

Notice on behalf of respondent no. 1 has been accepted by learned A.G.A.

Summon the original record.

List after eight weeks.

Till the next date of listing, effect and operation of the judgment and order dated 22.02.2021 and 23.02.2021 with realization of fine shall remain stayed.

Let the appellant- **Dharm Singh** be released on bail in Session Trial No. 346 of 2018 arising out of Case Crime No. 362 of 2017, under Section 307 of I.P.C., Police Station- Rakabganj, District- Agra after executing a personal bond and two sureties in the like amount to the satisfaction of the court concerned.

Allahabad High Court Legal Services Committee is directed to pay an honorarium of Rs. 10,000/- (being 50% of total fees) to Sri Radheshyam Yadav (A/R0020/2012), learned Amicus Curiae for rendering effective assistance in the matter.

**Order Date :-** 31.7.2023

Ishan