



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 413 of 2024

Kanhaiya

.....Appellant(s)

Versus

State Of Up And 3 Others

.....Respondent(s)

Counsel for Appellant(s) : Rahul Singh Dahiya
Counsel for Respondent(s) : G.A.

Court No. - 93

HON'BLE MRS. VANI RANJAN AGRAWAL, J.

Order on Criminal Misc. Bail/Suspension of Sentence Application

1. This appeal has been preferred by the appellant against the conviction and sentence recorded vide judgment and order dated 17/21.11.2023 passed by learned Additional Session Judge/Additional Judge, (POCSO Act) Court No.2, Bulandshahr in Special Case No. 77 of 2014, arising out of Case Crime No. 07 of 2014 under Sections 363, 366, 354A I.P.C. and 8 of POCSO Act, Police Station- Shikarpur, District- Bulandshahr.
2. Heard learned counsel for the appellant-applicant as well as the learned AGA for the State.
3. By means of the bail application, the appellant-applicant seeks suspension of sentence and grant of bail.
4. It has been submitted by learned counsel for the appellant that the appellant is innocent and has been falsely implicated. It has been further submitted that the conviction and sentence imposed by the learned trial court is against the weight of evidence on record. The trial court has misread the evidence on record and convicted the appellant. The prosecution has not been able to prove its case beyond reasonable doubt. There is a delay of 7 days of lodging FIR, while the distance of police station is about 200 meter from the place of occurrence. Victim was medically examined in District Women Hospital, Bulandshahr, in which no mark of injury was found on her body and hymen was old torn. The recovery of the victim took place after 20 days, and as per the FIR

version, the victim was about 12 years old at the time of the incident. There is no criminal history of the appellant. It has been further submitted that the appellant was on bail during trial and have not misused the liberty of bail. It is next submitted that the applicant is languishing in jail since 17.11.2023. It is further submitted that the maximum sentence awarded to the appellant is 7 years out of which appellant has served out more than 3 years in jail. Since there is no likelihood of early hearing of the appeal in near future, the appellant may be released on bail. Besides the above submissions, learned counsel for the appellant has also tried to touch upon at length the circumstances which led to the false implication of accused - appellant.

5. On the other hand, learned AGA vehemently opposed the bail application.

6. I have considered the rival submissions made by learned counsel for the parties and have gone through the entire record including the impugned judgment.

7. Having regard to the facts and circumstances of the case, sentence awarded to the appellant, the evidence available on record and the findings recorded by the trial court thereon and the fact that the appeal may take some time for its final disposal, without further commenting on the merits of the case, I am inclined to release the appellant on bail.

8. Let the above named accused-appellant **Kanhaiya** be released on bail in the aforesaid case on his furnishing a personal bond and two sureties in like amount to the satisfaction of the court concerned subject to the following conditions :-

(i) The appellant/applicant shall cooperate in the early disposal of appeal without seeking any adjournment.

(ii) The appellant/applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(iii) The appellant/applicant shall deposit the entire amount of fine imposed against him by the learned trial court within a period of four

weeks from the date he is released on bail under this order.

9. The sentence awarded to applicant-appellant shall also remain suspended during the pendency of this appeal.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is made clear that this Court has, however, not made any observation on the merits of the appeal.

12. A copy of the personal bond and surety bonds shall be transmitted to this Court by the trial court for being kept on record of this appeal.

13. Office is directed to send a copy of this order to the Court concerned through email/fax immediately for necessary compliance.

Order on Appeal

1. As per office report dated 30.08.2024, trial court record has been received.

2. Let Paperbook be prepared.

3. List this appeal for hearing in due course.

(Mrs. Vani Ranjan Agrawal,J.)

April 9, 2026
P. Pandey