

Court No. - 48

Case :- CRIMINAL APPEAL No. - 954 of 2020

Appellant :- Hemesh

Respondent :- State of U.P.

Counsel for Appellant :- Rakesh Pati Tiwari, Ritesh Singh, Suresh Singh

Counsel for Respondent :- G.A.

Hon'ble Suneet Kumar, J.

Hon'ble Surendra Singh-I, J.

Order on Criminal Misc. Bail Application No. 1 of 2020

This is first bail application filed on behalf of the appellant.

Heard Sri Ritesh Singh and Sri R.N. Nigam, learned counsel for the applicant/appellant and learned A.G.A. for the State and perused the record.

The instant application under Section 389 Cr.P.C. has been preferred with the prayer to suspend the sentence of conviction and to release the appellant on bail in Session Trial No. 66 of 2015 (State Vs. Hemesh and others) arising out of Case Crime No. 278 of 2014 under Section 302/34 I.P.C. and Session Trial No. 67 of 2015 (State Vs. Hemesh) arising out of Case Crime No. 281 of 2014 under Section 25/27 Arms Act, Police Station- Faijganj Behata, District- Budaun, during the pendency of the criminal appeal.

It is informed that the appellant is in jail since 22.10.2014 and has suffered incarceration for more than 8 years. Applicant has no previous criminal antecedents; applicant is innocent and has been falsely implicated in the instant case; the applicant is entitled to be enlarged on bail. The finding returned by the trial court is per se perverse.

Learned AGA has strongly opposed the prayer for bail but he has not been able to dispute the aforementioned facts.

We have perused the judgment and the records of the lower court with the assistance of the learned A.G.A.

Having regard to the length of incarceration and the fact that the appeal is not likely to be heard expeditiously, we are of the opinion that the sentence awarded by the trial court be kept in abeyance and the appellant be enlarged on bail.

Consequently, the prayer for bail is granted.

Without expressing any opinion on the merits of the case, let the appellant- **Hemesh**, convicted and sentenced in aforesaid case be released on bail on his furnishing

personal bond with two sureties each in the like amount to the satisfaction of the court concerned.

The appellant is directed to deposit 50% of the fine imposed by the trial court within one month from the date he is released on bail, failing which coercive method shall be adopted by the trial court for realization of fine. It is made clear that rest of the 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 send a copy of this order to the concerned Jail Superintendent through the Chief Judicial Magistrate concerned for compliance.

Order on Appeal

List this case in August 2023 for hearing.

Office to prepare the paper book, if already not prepared.

Order Date :- 15.12.2022

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