

**Court No. - 42**

**Case :-** CRIMINAL APPEAL No. - 1599 of 2018

**Appellant :-** Ankit And 2 Ors.

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

**Counsel for Appellant :-** Lav Srivastava, Kuldeep Kumar, Rajan Srivastava, Sr. Advocate, Yogendra Pal Singh

**Counsel for Respondent :-** G.A., Gaurav Singh, Lal Vijai Singh

**Hon'ble Arvind Singh Sangwan, J.**

**Hon'ble Ram Manohar Narayan Mishra, J.**

**Order on Criminal Misc Bail Application No.I-A/2 of 2018**

Heard learned counsel for the appellant, learned counsel for the informant, learned AGA for the State and perused the material placed on record.

This appeal arises out of the judgement and order dated 5.12.2017, passed by learned Sessions Judge, Hapur, in Sessions Trial No. 560 of 2015, (State vs. Ankit and others), arising out of Case Crime No.111 of 2015, under Sections 302/34, 506 IPC, P.S. Bahadurgarh, District Hapur, whereby the appellant has been convicted and sentenced as under:-

(i) to undergo life imprisonment, with fine of Rs.5,000/- and in default thereof he has to undergo three months rigorous imprisonment, under Section 302/34 IPC;

(ii) to undergo two years imprisonment, with fine of Rs.1,000/- and in default thereof he has to undergo one month rigorous imprisonment, under Section 506 IPC. Both the sentences are directed to run concurrently.

In this application, the appellants seek suspension of sentence and grant of bail whereas learned counsel for the appellants submits that he does not want to press the bail application on behalf of appellant Nos.1 and 2. Accordingly, present bail application in respect of appellant Nos.1 and 2 namely, Ankit and Bhopal stands **dismissed** as not pressed and the prayer made in present application on behalf of appellant No.3 Smt. Bala is considered in present bail order.

Learned counsel for the appellant submitted that the appellant is a lady and she was assigned to role of causing injury with *farsa*

(charade). Learned counsel for the appellant has referred the statement of PW-3, the Doctor, who conducted the post mortem, to submit that this Doctor has opined that he has no knowledge about the head of *farsa* as he has no knowledge about the same. Learned counsel for the appellant further submitted that it has come in his statement that injury Nos.1,2,3 and 4 would have been caused with the knife and therefore, the manner in which the prosecution has alleged that the appellant was carrying *farsa* and caused injury to the deceased is not strictly proved with the medical evidence.

Learned counsel for the appellant has relied upon the Custody Certificate dated 20.5.2022 to submit that, as on today, the appellant has undergone about 8 years, 6 months of custody without remission and about 10 years of custody with remission.

Learned counsel for the appellant lastly submitted that appeal is not likely to be heard finally in the near future and, therefore also, the accused-appellant may be released on bail during the pendency of the appeal.

Learned counsel for the informant has, however, opposed the prayer but could not dispute the actual custody undergone by the appellant as well as the statement of PW-3, the Doctor, who has conducted postmortem of the deceased.

After hearing learned counsel for the parties and considering the fact that the appellant is a lady and the statement of PW-3 as well as the fact that the appeal is not likely to be heard finally in near future, we grant suspension of sentence to the accused-appellant during the pendency of the appeal.

Let accused-appellant, **Smt. Bala**, convicted and sentenced, as above, be released on bail during the pendency of the appeal subject to her furnishing personal bonds and two sureties each of the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The appellant shall file an undertaking to the effect that she shall not seek any unnecessary adjournment.

(ii) The appellant shall not leave India without permission of this Court.

(iii) The appellant shall inform the change of address within 10 days, failing which the State shall be at liberty to request for cancellation of her bail.

(iv) It will be mandatory for the appellant to mark her presence before the concerned police station where the F.I.R. was lodged against him on first Monday of each calendar month.

It is further directed that the appellant shall deposit half amount of the fine awarded in judgement under appeal within three months after his release from jail pursuant to present bail order and thereafter the remaining half amount of fine shall remain stayed during the pendency of the appeal. In case of non-deposition of fine by appellant, the trial court will be at liberty to realize the same by issuing coercive process against the appellant.

In view of the above, this bail application is **allowed**.

List this appeal for final hearing in its due course.

**Order Date :- 29.11.2023**

Kamarjahan