

**Court No. - 46**

**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 Mohd. Azhar Husain Idrisi, J.**

**Order on Criminal Misc.2nd Bail Application**

1. This is an application seeking suspension of sentence of accused-appellant-Bhopal who has been convicted and sentenced in Sessions Trial No.560 of 2015 (State Versus Ankit and others), arising out of Case Crime No.111 of 2015, under Sections 302/34 and 506 I.P.C., Police Station Bahadurgarh, District Hapur.

2. Counsel relies on order dated 29.11.2023 by which co-accused-Bala wife of the appellant-Bhopal was granted bail. Operative part of the same reads as under:

"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."

3. However, the bail application of the appellant was dismissed as not pressed at that stage.

4. Counsel submits that as per the custody certificate dated 20.06.2024, appellant has now undergone custody of more than eleven years of total sentence including remission and nine years without remission and has no criminal history.

5. Counsel for the appellant, Bhopal has argued that the appellant is aged about 57 years and is not maintaining good health.

6. Considering long custody of the appellant and that the appellant has no criminal antecedents to his credit and in view of the fact that co-accused, Bala has been granted bail, the second bail application of the appellant-Bhopal is allowed.

7. Let accused-appellant-Bhopal convicted and sentenced in the aforesaid Sessions Trial be released on bail during the pendency of the appeal subject to his 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 he 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 his bail.

### **Order on Appeal**

List in the month of September, 2024..

**Order Date :- 5.7.2024**

MN/-