

Court No. - 81

Case :- CRIMINAL APPEAL No. - 2222 of 2023

Appellant :- Rajiv

Respondent :- State of U.P.

Counsel for Appellant :- Ajay Tripathi, Gyan Singh, Sukhvir Singh, Surya Prakash Pandey, Virendra Kumar Srivastava, Vivek Singh

Counsel for Respondent :- G.A., Jai Prakash Singh

Hon'ble Manoj Bajaj, J.

(Order on Suspension of Sentence Application)

Applicant-Appellant, namely, Rajiv has applied for suspension of sentence during pendency of the appeal, arising against the judgment of conviction dated 31.01.2023 and order of sentence dated 01.02.2023 passed by Additional District and Sessions Judge, Court No.6, Gautam Budh Nagar in Sessions Trial No. 458 of 2016 arising out of Case Crime No.656 of 2016, Police Station Phase-3, District- Gautam Budh Nagar, thereby convicting the appellant under Section 307 I.P.C., followed by imposition of sentence of ten years, under Section 307 I.P.C. with fine of Rs. 20,000, with a further condition that in the event of non deposit of fine, convict shall undergo further imprisonment of three months.

Learned counsel for the appellant has argued that the case of the prosecution is doubtful about the place of occurrence as P.W.5, Investigating Officer in his cross-examination has stated that the occurrence took place at a petrol pump whereas according to the complainant, the applicant-tenant fired at the injured (land lord) when he visited his house to demand rent. Further, it is argued that the applicant has undergone a period of three years in custody against the total awarded sentence of ten years. Therefore, he prays

for suspension of sentence.

The prayer is opposed by learned A.G.A. who has argued that the complainant has specifically named the accused and the trial court has carefully examined the material relied upon by prosecution while convicting the appellant. He prays that the application be dismissed.

Upon hearing the learned counsel and considering his submissions, this Court finds that the alleged discrepancy regarding the place of occurrence is misplaced as P.W.5 has only stated that the incident took place at a place which is situated near the petrol pump. That apart, the injured accused has specifically testified against the applicant-accused by narrating his involvement in commission of crime, therefore, considering the background of the case, seriousness of the offence as well as period undergone by the applicant, this Court is not inclined to suspend the sentence of the applicant, at this stage.

Resultantly, without meaning any expression of opinion on the merits of this case, the application is hereby dismissed.

Order on Appeal

List this appeal in due course

Order Date :- 29.7.2025

Shiv