

Court No. - 48

Case :- CRIMINAL APPEAL No. - 42 of 2015

Appellant :- Hariram

Respondent :- State of U.P.

Counsel for Appellant :- S.P. Tewari, Babita Upadhyay, Sanjeev Kumar Gaur

Counsel for Respondent :- Govt. Advocate, B.P. Verma, Deepak Dubey

Hon'ble Suneet Kumar, J.

Hon'ble Syed Waiz Mian, J.

(Order on Criminal Misc. IInd Bail Application No. 62200 of 2017)

This is second bail application. First bail application was rejected vide order dated 19.09.2016.

Heard Ms. Babita Upadhyay, learned counsel for the applicant/appellant, Sri Rajiv Lochan Shukla, learned counsel for the informant 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. 465 of 2012 (State Versus Pratap Solanki and others) arising out of Case Crime No. 311 of 2012, under sections 147, 148, 149, 307, 504, 506, 302, 394, 120-B I.P.C. and section 7 of Criminal Law Amendment Act, Police Station Vrindavan, District Mathura and Session Trial No. 468 of 2012 (State Versus Hariram) arising out of Case Crime No. 442 of 2012, under section 3/25 Arms Act, Police Station Vrindavan, District Mathura, during the pendency of the criminal appeal.

It is informed that co-accused Ranvir Singh has been enlarged on bail and accused Narayan Singh has been granted remission by the State; applicant has no criminal antecedent; appellant is in jail and as per custody certificate he has undergone incarceration for almost 11 years 11 months with remission. Having regard to the decisions of the Supreme Court in **Saudan Singh Vs. The State of Uttar Pradesh (Criminal Appeal No.308 of 2022)** and **Brijesh Kumar @ Ramu Versus The State of Uttar Pradesh (Criminal Appeal No. 540 of 2022)** the applicant is entitled to be enlarged on bail.

Learned AGA has strongly opposed the prayer for bail but he

has not been able to dispute the aforementioned authorities.

We have perused the judgment and the records of the lower court with the assistance of the learned A.G.A. 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- **Hariram**, 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 amount of 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 50% of realization of fine imposed by the trial court in the impugned judgment and order 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 in July 2023 for hearing.

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

Order Date :- 20.10.2022

K.K. Maurya