

Court No. - 48

Case :- CRIMINAL APPEAL No. - 860 of 2015

Appellant :- Imam Khawaja Alias Banti

Respondent :- State of U.P.

Counsel for Appellant :- K.D. Tiwari, Naseem Ahmad, Salman Ahmad

Counsel for Respondent :- Govt. Advocate, Mohit Singh

Hon'ble Siddhartha Varma, J.

Hon'ble Manish Kumar Nigam, J.

Re: Criminal Misc. Bail Application No. 79947 of 2015

1. Heard Shri Naseem Ahmad, learned counsel for the applicant/appellant, Shri J.K. Upadhyay, learned A.G.A. appearing for the State and perused the record.
2. The instant application has been filed to release the applicant/appellant on bail in Session Trial No. 1215 of 2010, arising out of Case Crime No. 348 of 2010, under Sections 302, 201, 506 of I.P.C., Police Station - Katghar, District - Moradabad.
3. Contention of the learned counsel for the applicant/appellant is that the applicant/appellant is innocent and has been falsely implicated in this case. Learned counsel for the applicant/appellant further stated that as per custody certificate, the applicant/appellant has actually remained in jail for around 9 years and 8 months and with remission he has remained in jail for around 11 years. Learned counsel for the applicant/appellant submitted that the criminal history of the applicant/appellant has been explained in paragraph 11 of the supplementary affidavit and the behaviour of the applicant/appellant was to the satisfaction of the Jail Authorities. Still further, learned counsel for the applicant/appellant submits that since the appeal is not likely to be heard and decided expeditiously in the near future, the applicant/appellant is, therefore, entitled to be released on bail.
4. Learned counsel for the applicant/appellant has placed reliance on the decisions of Supreme Court rendered in **Saudan Singh vs. State of U.P. decided on 25.2.2022** in Criminal Appeal No. 308 of 2022 [@SLP (Crl.) No. 4633 of 2022] and **Suleman vs. State of U.P. : Criminal Appeal No.491 of 2022 decided on 9.5.2022.**
5. In rebuttal, learned AGA has opposed the bail application but

he has not disputed the fact that the applicant has remained in jail for a fairly long time.

6. We have perused the judgement and records of the lower court with the assistance of the learned counsel for the parties. We are of the opinion that the sentence awarded by the trial court be kept in abeyance in respect of applicant/appellant and the applicant/appellant be enlarged on bail.

7. Consequently, the prayer for bail is granted. The bail application is **allowed**.

8. Without expressing any opinion on the merit of the case, let the applicant/appellant, **Imam Khawaja Alias Banti**, convicted and sentenced in the aforesaid case, be released on bail on his furnishing personal bonds with two sureties each in the like amount to the satisfaction of the court concerned.

9. The recovery of the fine shall remain stayed till the decision of the appeal.

10. On acceptance of bail bond and personal bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on the record.

11. Office to comply with the conditions as have been provided by Hon'ble Supreme Court in the case of **In Re Policy Strategy for Grant of Bail** passed in **SMWP (Criminal) No. 4 of 2021** by order dated 31.01.2023.

Re: Order on Appeal

12. Let the paper book be prepared.

13. List this case on **21.12.2023** for final hearing.

Order Date :- 30.5.2023

M.S. Ansari

(Manish Kumar Nigam,J.) (Siddhartha Varma,J.)