

Court No. - 45

Case :- CRIMINAL APPEAL No. - 4770 of 2022

Appellant :- Udai Nath Yadav And Another

Respondent :- State of U.P.

Counsel for Appellant :- Ankit Kapoor, Arvind Agrawal

Counsel for Respondent :- G.A.

Hon'ble Pritinker Diwaker, J.

Hon'ble Syed Aftab Husain Rizvi, J.

Order on Bail Application

Sri Arvind Agarwal, learned counsel for the appellants and Sri H.M.B. Sinha, learned AGA for the State.

As this appeal arises out of impugned judgement and order dated 02.06.2022 passed by Additional District & Sessions Judge, F.T.C.-2, Varanasi in Sessions Trial No. 960 of 2020 arising out of Crime No. 331 of 2020, P.S. Cholapur, District Varanasi convicting the accused appellants and sentencing them under Section 302 of I.P.C. to undergo imprisonment for life with a fine of Rs. 5000/- each, in default thereof, to undergo one month additional imprisonment, the bail application of the appellants is being disposed of by this order.

In this application, the appellants seek suspension of sentence and grant of bail.

Learned counsel for the appellants submits:

- i) that the appellant no. 1 Udai Nath Yadav is father-in-law whereas appellant no. 2 Vidyawati Devi is mother-in-law of the deceased;
- ii) that there is no eye witness account to the incident and based on weak circumstantial evidence, the trial court has convicted the appellants;
- iii) that there is no admissible evidence on record to suggest that at the time of occurrence, the appellants were present in the house;
- iv) that the appellants are in jail since 02.09.2020, the appeal is likely to take some time for its final disposal, therefore, the appellants be released on bail.

On the other hand, learned State counsel opposes the bail

application.

We have heard the parties.

Considering the totality of the case in particular the nature of evidence available on record, the detention period of the appellants and the fact that the appeal may take some time for its final disposal, without further commenting on the merits of the case, we are inclined to release the appellants on bail.

Let appellants Udai Nath Yadav and Vidyawati Devi convicted and sentenced in the above mentioned sessions trial be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Fifty Thousand) and two sureties each in the like amount to the satisfaction of the court concerned.

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.

List the appeal for final hearing in the month of May 2023.

In the meanwhile, Registry to prepare paper book.

Order Date :- 21.9.2022

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(S.A.H. Rizvi,J.) (Pritinker Diwaker,J.)