

**Court No. - 48**

**Case :-** CRIMINAL APPEAL No. - 2921 of 2006

**Appellant :-** Shyam Singh @ Shyam Lal And Others

**Respondent :-** State of U.P.

**Counsel for Appellant :-** Apul Misra, A.S. Diwakar, P.N. Misra, V.K. Srivastava

**Counsel for Respondent :-** Govt. Advocate

**Hon'ble Mahesh Chandra Tripathi, J.**

**Hon'ble Chandra Kumar Rai, J.**

**Order on Criminal Misc. Second Bail Application on behalf of applicant/appellant no.2-Har Prasad**

Heard , learned counsel for the appellant and learned A.G.A. for the State.

Present bail applications have been preferred for a direction to release the applicant/appellant no.2 on bail in Sessions Trial Nos.741 of 1994, 183 of 1998 and 703 of 1995 arising out of Case Crime Nos.447 of 1992, 451 of 1992 and 452 of 1992, under Sections 147, 148, 302/149 and 307/149 I.P.C., Police Station- Faizganj Beheta, District- Budaun.

The first bail application of the applicant/appellant no.2 was rejected by the co-ordinate Bench of this Court on 18.07.2006.

Learned counsel for the applicant/appellants submits that the applicant/appellant no.2 has been falsely implicated in the present case and he has no previous criminal antecedents. By now, he has already undergone more than 14 years of sentence in the present matter. He further states that the co-accused, namely, Shyam Singh has already enlarged on bail and there is no possibility of early hearing of the appeal, therefore, in view of the order dated 25th February, 2022 of the Supreme Court in Criminal Appeal No.308/2022 (**Saudan Singh vs. State of UP**) arising out of SLP (Crl) No.4633 of 2021, the appellants are entitled to be released on bail, pending disposal of the appeal.

Learned A.G.A. opposed the prayer for bail.

A perusal of the order of the Supreme Court in Saudan

Singh's case (supra) would reveal that one of the directions issued by the Apex Court, which is relevant to this case, is as follows:-

"We have put to learned AAG and the learned counsel for the High Court that a list should be prepared of all cases where the person has served out a sentence of 14 years, is not a repeat offender, and in any case if in these cases at one go bail can be granted and cases remitted for examination under the Uttar Pradesh Prisoners Release on Probation Rules, 1938. In all these cases, there is a high possibility that if these people are released, they may not be even interested in prosecuting their appeals.

We are quite hopeful that the High Court will adopt the aforesaid practice and thus prevent the Supreme Court to be troubled with such matters"

In view of the above quoted observations in the order passed by the Apex Court, dated 25.2.2022, in **Saudan Singh's case (supra)** and there being no dispute that the appellant by now has served over 14 years of imprisonment in connection with the case, without expressing any opinion on the merits and without prejudice to the right of the appellant to pursue this appeal or pray for remission as per law, we are of the view that the appellant is entitled to be released on bail.

Let the accused applicant/appellant no.2, namely, **Har Prasad** be released on bail in the above mentioned case on furnishing personal bond and two sureties each of the like amount to the satisfaction of the concerned Magistrate, subject to furnishing and undertaking that he will co-operate in the hearing of the appeal.

The realization of fine shall remain stayed during the pendency of the appeal.

On acceptance of his bail bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on the record of this appeal.

### **Order on Appeal**

Let this appeal along with connected appeal be listed for 'final hearing' in due course.

**Order Date :- 28.3.2022**

Rameez