

Court No. - 1

Case :- CRIMINAL APPEAL No. - 4596 of 2018

Appellant :- Golu Alias Brijesh Soni And Anr.

Respondent :- State Of U.P.

Counsel for Appellant :- Vijay Bahadur Shivhare, Arun Kumar Shukla

Counsel for Respondent :- G.A.

Hon'ble Ramesh Sinha, J.

Hon'ble Dinesh Kumar Singh-I, J.

Order on Crl. Misc. Bail Application No.1 of 2018

Heard Sri Arun Kumar Shukla and Sri Vijay Bahadur Shivhare, learned counsel for the appellants, Sri G.P.Singh, learned A.G.A. for the State and perused the lower court record.

It has been contended by the learned counsel for the appellants that the appellants were not named in the FIR as the same was lodged against unknown person. He further submitted that participation of the appellants has come into light after seven months of the incident in the statement of PW9, namely, Charan Singh who stated that he saw the two persons going in front of the house of the deceased. He next argued that at the time of arrest the appellants wore the jackets and some bloods were found on it and the same were sent for serologist and only in report disintegrated blood was found. There appears to be no cogent evidence against the appellants. The appellants did not have any motive to commit the alleged crime. The prosecution has not conducted the identification parade of the appellants. The informant of the case is also suspected of crime in question but he was not put to trial. The appellants have no criminal history. The appellants were on bail during trial, but they did not misuse the liberty of bail granted to them. The trial court has misread the evidence on record and wrongly convicted the appellants. He further submits that the appellants are in jail since 6.8.2018.

Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid fact as argued by learned counsel for the appellant.

Without expressing any opinion on the merits of the case and considering the facts and circumstances of the case as well as the sentence awarded to the appellant, we are of the opinion that the appellants are entitled to be released on bail.

Let the appellants-**Gulu alias Brijesh Soni & Suresh Kushwaha** convicted and sentenced in Special Case No.54 of 2013, arising out of Case

Crime No.86 of 2013, under Sections 394, 302/34 I.P.C., Police Station Kotwali Mahoba, District Mahoba be released on bail on their furnishing personal bonds with **two heavy sureties (one should be of their family member)** each in the like amount to the satisfaction of the court concerned.

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

(Dinesh Kumar Singh-I,J.) (Ramesh Sinha, J.)

Order Date :- 12.12.2018/NS