

**Court No. - 80**

**Case :-** CRIMINAL APPEAL No. - 5652 of 2019

**Appellant :-** Rajesh Singh And 4 Ors.

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

**Counsel for Appellant :-** Ashok Kumar Mishra,Adeel Ahmad Khan,Adeel,Kameshwar Singh

**Counsel for Respondent :-** G.A.,Lokesh Kumar Dwivedi

**Hon'ble Rajendra Kumar-IV,J.**

**(Criminal Misc. 1st Bail Application No. 1 of 2019)**

Counter affidavit filed on behalf of State is taken on record.

Heard Sri V.P. Srivastava, learned Senior Counsel assisted by Sri Kameshwar Singh, learned Counsel for appellants, learned AGA for State as well as Sri Lokesh Kumar Dwivedi, learned Counsel for Informant and perused the material available on record.

Accused-appellant convicted in Session Trial No.28 of 2010, State Vs. Rajesh Singh and others, (crime no.06 of 2007), under Sections 147, 148, 307/149 & 323/149 IPC, Police Station Bhimpur, District Ballia, applied for bail in pending appeal.

Learned counsel for the applicants/appellants submits that appellants are innocent and they have not committed any offence and falsely been implicated in the present case by the informant only to harass due to enmity. During trial appellants were on bail and they have never misused the liberty of bail. Impugned order of conviction is based on improper appreciation of evidence against the accused-appellants. Learned Trial Court did not consider this aspect of matter that who was aggressor because it is a cross case. FIR has been lodged through application under Section 156 (3) Cr.P.C. The applicants/appellants are in jail since 19.08.2018 having no criminal history. In case the applicants/appellants are released on bail, they will not misuse its liberty. Lastly, it has been submitted that maximum punishment awarded to the appellants are only seven years and due to huge pendency of appeals, this appeal is not likely to be heard soon.

Learned AGA and learned Counsel for Informant opposed the prayer for bail and submitted that the trial Court recorded conviction on the evidence available on record.

Appellants are named in FIR. There is sufficient evidence in trial Court to record conviction. Injuries on the side of Informant are serious. If appellants are released on bail, they will not be interested to get appeal decided on merit and they are very likely to run away. Hence, the bail application is liable to be rejected.

Considering the facts and circumstances of the case, material placed before me, rival contentions of learned Counsel for parties, detention of accused-appellant in jail, injuries on the informant side, severity of punishment in case of rejection of appeal, sentenced awarded by trial Court and without commenting upon merit of case, accused-appellant deserves bail.

Accordingly, bail application is allowed.

Let the appellants **Rajesh Singh, Sanjay Singh, Virendra Kumar Singh @ Mantu, Tilangi and Dev Chand be released on bail** in the aforesaid matter, during pendency of appeal, on his furnishing a personal bond and two sureties each in the like amount before the trial Court concerned to its satisfaction.

As soon as personal bonds and surety bonds are furnished, after keeping the same, photocopies are directed to be transmitted to this Court forthwith by trial Court concerned to be kept on the record of this appeal.

**Order Date :-** 19.11.2019

I.A.Siddiqui