

Court No. - 45

Case :- CRIMINAL APPEAL No. - 6515 of 2019

Appellant :- Shiv Kumar And 5 Ors.

Respondent :- State of U.P.

Counsel for Appellant :- Bablu Singh, Dharmendra Singh, Pravin Kumar, Ramesh Chandra Chaturvedi, Samit Gopal (Senior Adv.)

Counsel for Respondent :- G.A.

Hon'ble Pritinker Diwaker, J.

Hon'ble Nalin Kumar Srivastava, J.

Order on Bail Application:

Sri K.K. Singh and Shri Pravin Kumar Singh learned counsel for the appellants and Sri Vikram Bahadur Singh, learned AGA for the State.

As this appeal arises out of impugned judgement and order dated 04.10.2019 passed by Additional Sessions Judge, Court No-24, Kanpur Nagar in Sessions Trial No. 83 of 2018 arising out of case crime no. 113 of 2017, P.S. Raipurwa, District-Kanpur Nagar convicting the accused appellants and sentencing them to undergo rigorous imprisonment of two years for the offence under Section 148 I.P.C. with a fine of Rs.2,000/-, in default thereof to undergo additional imprisonment of one month, to undergo imprisonment of life for the offence under Section 302/149 I.P.C. with a fine of Rs. 10,000/-, in default thereof, to undergo six months additional simple 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 sole eye-witness P.W.1, father of the deceased and the informant, though in the examination-in-chief, has deposed against the accused persons but later in the cross-examination, he has admitted the fact that the FIR has been lodged by asking the police officer;

ii) that at the instance of accused Chhotu, one rapi (an agricultural sharp edged weapon) has been seized but the said recovery is not in accordance with law because no independent person has supported the recovery and moreover, the same has

not been based on any memorandum; and

iii) except appellant Chhotu other accused persons were on bail during trial and the appeal is likely to take some time for its final disposal and, therefore, the appellants be released on bail.

On the other hand, learned State counsel opposes the bail application.

We have heard the parties and perused the record.

Considering the totality of the case, in particular, the nature of evidence adduced by the prosecution, statement of P.W.1 and the recovery part, and the fact that the appeal is likely to 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 Shiv Kumar, Om Prakash, Dilip, Ravi, Chhotu and Aditya 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) each 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 its due course.

In the meanwhile, Registry to prepare paper book, if not already prepared.

Order Date :- 17.1.2023

Fhd

(N. K. Srivastava,J.) (Pritinker Diwaker,J.)