

Court No. - 32

Case :- CRIMINAL APPEAL No. - 5560 of 2017

Appellant :- Gajendra & 4 Others

Respondent :- State Of U.P.

Counsel for Appellant :- Mrityunjay

Dwivedi, Vishal Agarwal

Counsel for Respondent :- G.A.

Hon'ble Shashi Kant Gupta, J.

Hon'ble Bachchoo Lal, J.

Order on Criminal Misc. Bail Application No. 4 of 2018.

Today, a counter affidavit has been filed by learned A.G.A. and a photocopy of First Information Report has been filed by learned counsel for the appellants, let these documents be taken on record.

This is a bail application moved on behalf of appellants Rajendra, Hari Shankar, Mahipal and Bharat Singh in the instant criminal appeal.

Heard learned counsel for the parties and perused the record.

Contention of the learned counsel for the appellants is that even if the prosecution story is believed to be true, the role of killing the deceased has been assigned to co-accused Raj Bahadur who has already expired during trial itself and is not a party in the present appeal; reliance in this regard has been placed upon the testimony of P.W.-3 Rajendra; appellants were on bail during trial which liberty has never been misused or abused by them and the appellants

have no previous criminal history; the appellants are in jail since 16.9.2017 and there is no likelihood of the appeal being heard in near future. It has been further submitted that the co-accused Gajendra has already been released on bail vide bail granting order dated 15.2.2018 in Cr. Misc. Bail Application No. 317557 of 2017 and the case of the appellants stands on the same footings, hence, the appellants are also entitled for bail on the ground of parity.

Learned A.G.A. has strongly opposed the prayer for bail but could not rebut the aforesaid contentions.

Without expressing any opinion on the merits of the case, let the appellants Rajendra, Hari Shankar, Mahipal and Bharat Singh convicted and sentenced in S.T. No. 1179/2003 arising out of case crime no. 99/2003, u/s 147, 148, 149, 302 IPC, PS. Atrauli, District Aligarh be released on bail on their furnishing a personal bond with 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.

Fifty percent of the fine shall be deposited by appellants within a period of one month from the date of their release and balance fifty percent of fine shall remain stayed during the pendency of this appeal. In case of default in depositing fifty percent of fine within the aforesaid period, the same shall be recovered in accordance with law.

Order Date :- 3.5.2018

Gss