

Court No. - 46

Case :- CRIMINAL APPEAL No. - 7002 of 2011

Appellant :- Manuraj

Respondent :- State of U.P.

Counsel for Appellant :- S.P. Tewari, Pankaj Satsangi

Counsel for Respondent :- Govt. Advocate, Ghan Shyam Das

With

Case :- CRIMINAL APPEAL No. - 1872 of 2007

Appellant :- Sukhram And Others

Respondent :- State of U.P.

Counsel for Appellant :- Lav Srivastava, Arun Srivastava, Dilip Gupta, Dilip Kumar, Ghanshyam Das, R. Gupta, Rajiv Gupta, V.P. Srivastava

Counsel for Respondent :- Govt. Advocate, Brij Raj, Govind Saran Hajela, Rajiv Lochan Shukla, S.K. Dubey, Sanjeev Kr. Gupta, Umesh Chandra Misra, V.C. Mishra

Hon'ble Mrs. Sunita Agarwal, J.

Hon'ble Vikas Kunvar Srivastav, J.

The appellant Manuraj, lodged in jail since 01.12.2011 had approached the Apex Court challenging the judgment and order dated 01.12.2020 passed by this Court whereby second bail application filed by him had been rejected. While disposing of the Special Leave Petition filed by the appellant, it was noted by the Apex Court that the learned counsel for the appellant was reluctant to argue the appeal on merit before the High Court. However, looking to the long incarceration of the appellant, it was requested that a date be fixed for disposal of the appeal finally, preferably within a period of next two months.

We may note that this appeal is regularly being listed since 02.06.2021 after the decision of the Apex Court but no counsel has put in appearance to argue.

In the connected appeal, there are three accused. Both the appeals have arisen out of two sessions trials namely Session Trial No.86 of 2006 and Session Trial No.86A of 2006. The appellants in Criminal Appeal No.1872 of 2007 have been convicted in the Session Trial No.86 of 2006 (State Vs. Sukhram and Others) whereas appellant Manuraj in Criminal Appeal No.7002 of 2011 has been convicted in Session Trial No.86-A of 2006 (State Vs. Manuraj).

It seems that the bail application of the appellant Sukhram and

Jeetraj S/o Sukhram had been allowed vide order dated 12.01.2009 whereas the bail application of the appellant no.2 Aushan S/o Sukhram was kept for further consideration. Vide order dated 05.05.2009, the bail application of appellant no.2 Aushan Singh had also been rejected. However, an application dated 18.07.2016 had been filed through one Ghan Shyam Das, Advocate on behalf of the complainant wherein it is stated that the appellant no.2 Aushan Singh had been released illegally from jail on 08.07.2016 after executing bail bonds before the District Magistrate, Mainpuri and since then he was out of jail. It was categorically stated therein that there was no bail order of appellant no.2 Aushan Singh. On the said application dated 18.07.2016, the order dated 21.07.2016 was passed by this Court asking the learned A.G.A. to seek instructions to verify the averments made in the affidavit accompanying the said application. Further time was sought by the learned A.G.A. when the matter was taken up on 03.08.2016. However, no reply to the said application has been filed till date.

From the order dated 26.10.2016 in Criminal Appeal No.1872 of 2007, it seems that on the statement of learned counsel for the appellants that the appellant Sukhram had died, the Chief Judicial Magistrate, Mainpuri was directed to verify the factum of death. No report has been received so far.

In the said scenario, it is required that the appellant Manuraj who is in jail shall be intimated through the Chief Judicial Magistrate, Mainpuri that the appeal is being listed for final hearing and he is required to instruct his counsel to argue it on merits. It shall also be intimated that in case he is not able to engage a private counsel, legal aid may be provided to him. However, in case on the next date fixed he remains unrepresented i.e. no counsel appears on his behalf, the Court may appoint an Amicus Curiae to proceed with the hearing of the appeal.

As regards, the three appellants in connected Criminal Appeal No.1872 of 2007, the Chief Judicial Magistrate, Mainpuri is directed to submit a report regarding living status of the appellants and also the whereabouts of the appellant no.2 Aushan S/o Sukhram. The appellants be also intimated about the date fixed in the appeal and that their counsels are not appearing in the matter and they are required to instruct them. It shall also be intimated that in case no one represents the appellants on the next date, the Court may pass adverse orders.

Learned A.G.A. shall also complete his instructions on the issue of release of appellant no.2 Aushan Singh S/o Sukhram which was raised by the complainant in the year 2016.

A comprehensive report shall be submitted by the Chief Judicial Magistrate, Mainpuri within a period of three weeks. Learned A.G.A. shall also seek a report from the concerned jail where the appellant no.2 Aushan Singh S/o Sukhram was lodged after his conviction by the trial court.

Let this matter be posted alongwith the requisite report on 30.03.2022.

Order Date :- 8.3.2022

Saurabh