

Court No. - 44

Case :- CRIMINAL APPEAL No. - 6320 of 2018

Appellant :- Ramu

Respondent :- State of U.P.

Counsel for Appellant :- Anil Kumar

Counsel for Respondent :- G.A.

Hon'ble Dr. Kaushal Jayendra Thaker,J.

Hon'ble Ajit Singh,J.

(Order on Criminal Misc. Bail Application)

1. Since last several dates Sri Anil Kumar, learned counsel for the appellant has absented himself. Learned A.G.A. for the State is present.

2. This bail application on behalf of accused-appellant convicted and sentenced in S.T. No. 720 of 2009 (State Vs. Ramu and other), under Section 302 I.P.C., Police Station Powayan, District Shahjahanpur.

3. Having gone through the F.I.R and fact that the accused Ramu saw his wife in a compromising position with other co-accused and in out of rage he is alleged to have committed maarpeet with co-accused and his wife with banka and in retaliation accused Ramu is alleged to have done to death his wife. It is very clear that all this happened due to grave and sudden provocation and the accused is in jail since long; that the paper book has not yet been prepared and, therefore, in view of the decision of the Apex Court in **Criminal Appeal No.308 of 2022 (Saudan Singh vs. State of U.P.) decided on 25.2.2022**, accused-applicant is entitled to be released on bail.

4. Learned A.G.A. for the State has vehemently objected to the grant of bail of the accused.

5. Recently, in a book titled "**Bail-Law And Practice In India**" edited by Sri Manoj Kumar Sinha and Sri Anurag Deep requires a mention that:

"Personal liberty is deprived when bail is refused. Deprivation of liberty must be founded on the most serious considerations. It is justified only in societal interest. No more deprivation or curtailment than what is strictly necessary to safeguard the legitimate societal interests can be permitted. Thus, there is a need to maintain a balance between the individual and the society affected by an act alleged to have been committed by

such an individual."

6. The accused-appellant is in jail since long. The paper book is not ready. Hence, in view of the judgment in **Saudan Singh Case (Supra)** and on re-appreciation of material on record, the accused-appellant- Ramu, is entitled to be released on bail.

7. We, therefore, direct the jail authorities concerned to release accused-appellant **Ramu**, convicted and sentenced in the aforesaid Sessions Trial be released on bail during the pendency of the appeal subject to his furnishing a personal bond and two sureties each of the like amount to the satisfaction of the Court concerned with the following conditions :-

(i) The appellant shall file an undertaking to the effect that she shall not seek any unnecessary adjournment.

(ii) The appellant shall not leave India without permission of this Court.

(iii) The appellant shall inform the change of address within 10 days, failing which the State shall be at liberty to request for cancellation of his bail.

8. As far as fine is concerned, the same shall remain suspended till final disposal of the appeal, if yet not deposited.

(Order on Appeal)

Office to prepare paper book as the record is before this Court.

Order Date :- 6.1.2023

PS