

Court No. - 48

Case :- CRIMINAL APPEAL No. - 1988 of 2014

Appellant :- Naushe And Anr.

Respondent :- State of U.P.

Counsel for Appellant :- N.K. Yadav, Apul Misra, G.R.S. Pal, Gaurav Kakkar

Counsel for Respondent :- Govt. Advocate, Sanjive Kumar Gupta-I

Hon'ble Suneet Kumar, J.

Hon'ble Syed Waiz Mian, J.

Order on Criminal Misc. Second Bail Application No. 11 of 2019.

Heard Shri Raghvendra Prakash and Saurav Yadav, Advocates, holding brief of Shri Gaurav Kakkar and learned counsel for the appellant/applicants and learned A.G.A. for the State and perused the record.

It is urged that as per custody certificate dated 20.05.2022 and 26.05.2022 of Jailer, Central Jail, Bareilly, appellant/applicants have undergone incarceration with remission for 11 years, 2 months and 24 days and 11 Years, 8 months and seven days, respectively, sentence pursuant to the impugned judgment and order. It is urged that the appeal is not likely to be heard in near future. In support of his submission, reliance has been placed on the decisions of the Supreme Court in *Saudan Singh Vs. The State of Uttar Pradesh (Criminal Appeal No.308 of 2022)* and *Brijesh Kumar @ Ramu Versus The State of Uttar Pradesh (Criminal Appeal No. 540 of 2022)* the appellants are entitled to be enlarged on bail.

Learned AGA has strongly opposed the prayer for bail but he has not been able to dispute the aforementioned authorities.

We have perused the judgment and records of the lower court with the assistance of the learned counsel for the parties. We are of the opinion that the sentence awarded by the trial court be kept in abeyance and the appellants in consequence be enlarged on bail. Consequently, the prayer for bail is granted.

Without expressing any opinion on the merit of the case, let the appellant/applicants-Naushe and Hattu, convicted and sentenced in Sessions Trial No. 1087 of 1998 (State vs. Naushe and another) arising out of Case Crime No. 193 of 1998, under Sections 302/34, 364 I.P.C. Police Station-Dataganj, District-

Badaun, 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.

It is made clear that the appellant/applicants shall deposit fine imposed by the trial court, and amount shall be released in favour of the victim as directed by the trial Court, in the impugned judgment and order shall remain stayed till the decision of the appeal.

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.

Office to inform the concerned Jail Superintendent through C.J.M. concerned to ensure compliance of the order.

Order on Appeal

Office to prepare the paper book, if not prepared.

List the appeal in the month of July, 2023.

Order Date :- 15.9.2022

Deepak/