

Court No. - 67

Case :- CRIMINAL APPEAL No. - 10319 of 2023

Appellant :- Yadram

Respondent :- State of U.P.

Counsel for Appellant :- Anwar Hussain, Avinash Mani Tripathi

Counsel for Respondent :- G.A.

With

Case :- CRIMINAL APPEAL No. - 10098 of 2023

Appellant :- Phool Singh Another

Respondent :- State of U.P.

Counsel for Appellant :- Anwar Hussain, Avinash Mani Tripathi

Counsel for Respondent :- G.A.

Hon'ble Rahul Chaturvedi, J.

Hon'ble Mohd. Azhar Husain Idrisi, J.

(Order on Suspension of Sentence)

1. Heard Sri Anwar Hussain, learned counsel for the appellants and Sri R.K. Rao, learned A.G.A. for the State.

2. This criminal appeal under Section 374 (2) Cr.P.C. has been preferred by appellants against the impugned judgment and order of conviction dated 14.08.2023 passed by the Additional District and Sessions Judge / Fast Track Court-2, Firozabad whereby appellants, Yadram, Phool Singh and Yogesh were convicted in Session Trial No.99 of 202015 (State Vs. Yadram and 4 others) arising out of Case Crime No.348 of 2014, Police Station Jasrana, District Firozabad and were convicted under Sections 302 read with Section 34 I.P.C. for life imprisonment and fine of Rs.30,000/- each. Similarly, they were also convicted for the offence under Section 201 read with Section 34 I.P.C. and awarded for three years imprisonment and fine of Rs.5000/- with the default clause.

3. Learned counsel for the appellants has contended that in this case the deceased is Satyaveer @ Pokhi, husband of Baby, who is informant of this case. Submission advanced by learned counsel for the appellants that Baby got married with deceased out of sheer love and affection and ignoring the resistance posed by her family members. He further submitted that five persons, namely Yadram

(Tau of the first informant), Srichandra and Chhatrapal (both of uncle of first informant) and Phool Singh and Yogesh, father and brother respectively of the first informant, have put to trial.

4. Submission advanced by learned counsel for the appellants that out of these five persons, only three persons, namely, Yadram, Phool Singh and Yogesh were convicted and rest of the two persons, namely, Chhatrapal and Shrichandra were exonerated from the charges.

5. It is contended by learned counsel for the appellants that Phool Singh and Yogesh were not named in the F.I.R. and their names have figured during investigation after considerable delay. The role of actual firing has been attributed to Yadram son of Ganga Ram, who happens to be the Tau of the first informant. In fact, this is a case of **honor killing**, whereby Baby have got married with the deceased ignoring the resistance and objections raised by her family members and her husband has to pay the price of it.

6. In the circumstances, there is specific role of firing has been attributed to the appellant Yadram for giving a deadly blow on the head of the deceased. The post mortem too corroborate that they are two wounds of entry and one wound of exit corresponding to the injury no. 2.

7. In these circumstances, where the name of the accused appellant Phool Singh and Yogesh has come during investigation and no overt act to have been placed on behalf of the appellant Phool Singh. During trial there is embellishment regarding testimonies of the various witnesses but fact remains that allegation against Yadram is consistent, hence the bail application of **Yadram is hereby rejected.**

8. So far as, the appellants Phool Singh and Yogesh are concerned, they are not named in the F.I.R. and their names have figured during investigation after considerable delay, hence they are entitled to be released on bail.

9. Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts.

10. Keeping in view the nature and gravity of offence and considering the fact that the appellant is facing incarceration for more than five years, the appellant is liable to be released on bail.

11. Let the **appellants-Phool Singh and Yogesh** be released on

bail in the aforementioned sessions trial on their furnishing a personal bond and two heavy sureties each, (out of which one should be close relative) each in the like amount to the satisfaction of the court concerned.

12. On acceptance of bail bonds, the lower court shall transmit photostat copies thereof to this Court for being kept on record of this appeal.

13. 50% of the fine awarded by the court below under the impugned judgment shall be deposited by the applicants within a month from their release on bail.

14. Remaining 50% of the fine amount awarded by the court below shall remain stayed.

Order on appeal

15. Office is directed to prepare the paper-book on priority basis.

16. List this appeal in due course.

Order Date :- 13.12.2023

Manoj