

Court No. - 46

Case :- CRIMINAL APPEAL No. - 514 of 2015

Appellant :- Sudami And Another

Respondent :- State of U.P.

Counsel for Appellant :- Janardan Yadav,Rajiv Lochan Shukla

Counsel for Respondent :- Govt.Advocate

Hon'ble Siddharth,J.

Hon'ble Ram Manohar Narayan Mishra,J.

Order on second bail application.

This is the second bail application filed on behalf of the applicants/appellants, namely, Sudami and Ganesh Prajapati and the same is pending for consideration. The first bail application of the appellants was rejected on 13.11.2018, by a co-ordinate Bench of this Court, which is not available now.

Heard Sri Rajiv Lochan Shukla learned counsels for the appellants, learned A.G.A. for the State-respondent and perused the material brought on record.

This appeal arises out of impugned judgement and order dated 19.1.2015, passed by Learned Additional Sessions Judge, Court No.8, Azamgarh, in Sessions Trial No.344 of 2014, arising out of Case Crime No.427 of 2012, under Sections 498-A, 302 of I.P.C. and 3/4 of D.P. Act, Police Station Mubarakpur, District Azamgarh.

Learned counsel for the appellants submitted that the appellants were never released on bail during trial or pendency of this appeal. The custody certificate of appellant No.2, Ganesh Prajapati, shows that he is in jail for actual period of 9 years, 11 months and 21 days as on 22.7.2022 and with remission for a period of 11 years, 4 months and 18 days, on the same date. The appellants are in jail since 27.8.2012. They do not appear to have any prior criminal history. The appellants are more than 80 years of age. This appeal is pending since 2011 and is likely to take a couple of years or even more in its final disposal, hence in view of the order of the Apex Court dated 25.02.2022 passed in **Criminal Appeal No. 308 of 2022 arising out of S.L.P. (Crl) No. 4633 of 2021: Saudan Singh Versus State of U.P.** and the order dated 25.03.2022 passed by the Apex Court in **Criminal Appeal No. 491 of 2022: Suleman Versus the State of Uttar Pradesh arising out of SLP**

(Crl) No. 1451 of 2022 appellants are entitled to be released on bail during the pendency of this appeal.

Learned A.G.A. opposed the prayer for bail, however could not dispute the aforesaid facts as argued by learned counsel for the appellants.

A perusal of the order dated 25.02.2022 passed by the Apex Court in **Saudan Singh's** Case (supra) would reveal that one of the directions issued by the Apex Court, which is relevant, is as follows:-

"We have put to learned A.G.A. and the learned counsel for the High Court that a list should be prepared for all the cases where the person has served out a sentence of 14 years, is not a repeat offender, and in any case if in these cases at one go bail can be granted and cases remitted for examination under the Uttar Pradesh Prisoners Release on Probation Rules, 1938. In all these cases, there is a high possibility that if these people are released, they may not be even interested in prosecuting their appeals.

We are quite hopeful that the High Court will adopt the aforesaid practice and thus prevent the Supreme Court to be troubled with such matters."

Similar view has been expressed by the Apex Court in **Suleman's case** (supra).

Taking into consideration the aforesaid observations of the Apex Court and the undisputed fact that the appellants by now have served more than 13 years of imprisonment in connection with case, without expressing any opinion on merits, we are of the view that the appellants are entitled to be released on bail.

Accordingly, the present application for bail on behalf of appellants is **allowed**.

Let appellants- **Sudami and Ganesh Prajapati**, convicted and sentenced in the above mentioned sessions trial, be released on bail on their furnishing personal bond in the sum of Rs. 50,000/- (Fifty Thousand) each and two sureties each in the like amount to the satisfaction of the court concerned.

In view of the fact that the appellants have no previous criminal history, the sentence awarded to appellants shall remain suspended during pendency of appeal.

Half of the fine imposed shall be deposited within three months after release and remaining fine shall remain stayed, and in case of failure in depositing the amount of fine within the stipulated

period, the trial court will take coercive action against the appellants.

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.

Order on memo of appeal

Paper book has already been prepared.

Office is directed to list this appeal alongwith Criminal Appeal No.513 of 2015 (Leelawati vs. State of U.P.) for final hearing in due course.

Order Date :- 12.1.2024

Kamarjahan