

Court No. - 46

Case :- CRIMINAL APPEAL No. - 886 of 2017

Appellant :- Mohd. Siddhiq And 2 Others

Respondent :- State of U.P.

Counsel for Appellant :- Mohd Akhtar, Sufiya Bano, Sushil Kumar Dwivedi, Swati Agrawal Srivastava

Counsel for Respondent :- Ajay Kumar Singh, G.A., M.S. Mishra

Hon'ble Arvind Singh Sangwan, J.

Hon'ble Mohd. Azhar Husain Idrisi, J.

(Order ON Criminal Misc. 2nd Bail Application No. 08/ 2024)

1. Supplementary affidavit filed on behalf of appellant nos. 2 and 3, is taken on record.

2. This is the 2nd bail application seeking suspension of sentence of accused-appellants, Sadab @ Khanjati and Jumrati. The counsel for the appellants/applicants contends that first bail application was rejected on 09.01.2018 and it was observed in the order that appellant no.1 Mohd. Siddhiq, aged about 83 years, was assigned role of causing injury with sickle whereas appellant nos. 2 and 3 namely Sadab @ Khanjati and Jumrati were armed with lathi and danda. The counsel submits that appellant no.1 Mohd. Siddhiq has already died while in custody and appellant nos. 2 and 3 namely Sadab @ Khanjati and Jumrati have been convicted under Section 304 Part-I read with Section 34 I.P.C and sentenced for life imprisonment. Learned counsel for the appellants has submitted that the new ground is that as per Custody Certificate, the appellants have undergone more than 8 years & 7 months of actual sentence and more than 10 years of total sentence including remission as of today and his case is covered by 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 as the appeal is not likely to be heard finally in near future.

3. Learned A.G.A. for the State, from the custody certificate, could not dispute the actual sentence undergone by the accused-appellant. Learned counsel for the informant has however submitted that injured witnesses have supported the prosecution case.

4. We have heard learned counsels for the parties. Looking to the facts and circumstances of the case, period of sentence already

undergone by the accused-appellants and the fact that the appeal is not likely to be listed for final disposal in near future, we grant suspension of sentence to the accused-appellants during the pendency of the appeal in view of the decision of the Apex Court in Saudan Singh (Supra).

5. Let accused-appellants, Sadab @ Khanjati and Jumrati, convicted and sentenced under Sections 304 Part-I read with Section 34 I.P.C. and 308/34 IPC, vide judgment and order dated 28.01.2017 passed by Additional Sessions Judge, Court No.4, Varanasi in Sessions Trial No.306 of 2008 arising out of Case Crime No.95 of 2008, Police Station Phoolpur, District Varanasi be released on bail during the pendency of the appeal subject to their furnishing personal bonds and two sureties each of the like amount to the satisfaction of the Court concerned with the following conditions :-

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

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

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

6. Half of the fine shall be deposited within three months from today.

7. In view of the above, this bail application is allowed.

Order on Appeal

List when its turn comes.

Order Date :- 27.11.2024/AKT