

Court No. - 44

Case :- CRIMINAL APPEAL No. - 9380 of 2022

Appellant :- Shivratan

Respondent :- State of U.P.

Counsel for Appellant :- Chandra Prakash Pandey

Counsel for Respondent :- G.A.

Hon'ble Siddhartha Varma,J.

Hon'ble Vipin Chandra Dixit,J.

Ref: Criminal Misc. Suspension of Sentence Application No. 01 of 2022

1. Heard learned counsel for the applicant-appellant, learned A.G.A. for the State and perused the record.
2. The instant application has been filed under Section 389(1) of Cr.P.C. to release the applicant-appellant on bail in Session Trial No.70 of 2018 (State Vs. Shivratan) arising out of Case Crime No.803 of 2017, under Section 302 of I.P.C., Police Station - Chhibramau, District - Kannauj.
3. Contention of the learned counsel for the applicant is that the applicant is innocent and has been falsely implicated in the instant case. Learned counsel for the applicant took the Court through the first information report and has submitted that the case which was taken in the first information report was that the younger brother of the first informant had been murdered by his own relative i.e. the husband of the sister of his wife Vimla. Learned counsel submits that in the first information report, it had been stated that because earlier Geeta another sister of Vimla had stayed with applicant-Shivratan for 3 to 4 years and had now shifted to the house of Rajnesh, the deceased, there was enmity between Shivratan and Rajnesh. Learned counsel submits that the motive which had been

provided in the first information report was that Geeta was in the ownership of around five bighas of agricultural land. Learned counsel submits that as per the first information report on the date of incident when Vimla had raised a hue and cry then Geeta, the sister of Vimla alongwith Amar Singh and Surendra in torch light had seen that the applicant- Shivratan had run away with one unknown person. Learned counsel submits that the very case taken up in the first information report was an unbelievable one. He submits that when there was absolutely no allegation against the applicant with regard to the staying of Geeta with Shivratan earlier for some improper reason and thereafter subsequently she was staying with Rajnesh then the motive itself was a weak one. He further submits that if Geeta was in the ownership of 5 bighas of agricultural land then for getting that land it would have been easier if Geeta herself was done away with. Learned counsel further submits that when four witnesses, namely, Vimla, Geeta, Amar Singh and Surendra had seen the accused-applicant running away then they had also seen running away him with one unknown person, but no effort had ever been made to trace down the unknown person.

4. Learned counsel further submits that if one goes by the version of the first information report then when Vimla had raised a hue and cry then Geeta had seen the whole incident alongwith Amar Singh and Surendra but Amar Singh and Surendra were never produced in the witness box. Learned counsel, therefore, states that conviction on the basis of an interested eye witnesses was unsafe. Learned counsel further submitted that as per the first information report itself alongwith deceased his wife and a child were also sleeping but neither any injury nor any blood stains were found on them. Learned counsel further submits that the applicant has no

criminal history and that he has, as per the custody certificate, remained in jail for more than seven years.

5. In rebuttal, learned A.G.A. has opposed the bail application but could not deny the aforementioned facts.

6. We have perused the judgment of the court below 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 in respect of the applicant and he be enlarged on bail.

7. Consequently, the prayer for bail is granted. The bail application is **allowed**.

8. Without expressing any opinion on the merit of the case, let the applicant-**Shivratan** convicted and sentenced in the aforesaid case, be released on bail on their furnishing personal bonds with two sureties each in the like amount to the satisfaction of the court concerned.

9. The realization of fine shall remain stayed till the decision of the appeal.

10. 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.

11. Office to inform the concerned Jail Superintendent through Chief Judicial Magistrate concerned to ensure compliance of the order.

Order on Appeal

1. Lower court record has been received.

2. Paper book be prepared.

3. List this case in the month of October, 2025 for final hearing.

Order Date :- 11.4.2025

Radhika

(Vipin Chandra Dixit,J.) (Siddhartha Varma,J.)