



HIGH COURT OF JUDICATURE AT ALLAHABAD

CRIMINAL APPEAL No. - 9080 of 2024

Dara Singh

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

Counsel for Appellant(s)	: Araf Khan, Lihazur Rahman Khan, Rohit Shukla
Counsel for Respondent(s)	: Amit Singh, Anil Kumar Pandey, G.A.

Court No. - 42

HON'BLE SIDDHARTHA VARMA, J.

HON'BLE JAI KRISHNA UPADHYAY, J.

Ref: Criminal Misc. Bail Application (Suspension of Sentence)

1. Heard Shri V.P. Srivastava, learned Senior Advocate assisted by Shri Araf Khan and Ms. Neeja Srivastava, learned counsel for the applicant, learned A.G.A. for the State and perused the record. However, none is present for the informant even in the revised call.
2. The instant application has been filed under Section 389 of Cr.P.C. to suspend the sentence of conviction and to release the applicant on bail in Session Trial No.148 of 2014 (State of U.P. versus Narayan Singh and others) arising out of Case Crime No.232 of 2013, under Sections 148, 307/149, 302/149 of I.P.C., Police Station - Refinery, District - Mathura.
3. Contention of the learned counsel for the applicant is that the applicant is innocent and has been falsely implicated. It is also submitted that because of prior rivalry, on 31.8.2023 while the informant, his father Vijendra Singh and mother Virma Devi were cutting chara in their agricultural field, the accused namely, Hakim, Lauki, Kotwal, Dara Singh, Jaswant appeared at the place of occurrence with illegal firearms and Hakim shot his father with an intention to kill because of which he fell down and died. Accused Hakim also exhorted the others to fire and everyone opened rapid fire upon him and his mother with an intention to kill them. The incident was witnessed by Shivraj and other villagers and upon seeing them the accused ran away and the mother and he himself in an injured condition went to the police station to lodge the FIR. Prosecution case further is that Hakim had developed enmity with the family members of the informant on account of the fact that Suresh had got arranged the marriage of the informant and he (Suresh) had

been murdered by Hakim and Lauki. Learned counsel for the appellant further submitted that he was ready to argue the case finally but since the learned counsel for the informant was not present, he was arguing on bail. It has further been submitted that the main role of committing murder of the deceased had been assigned to co-accused Hakim, who had been granted bail in Criminal Appeal No. 10329 of 2025. It is also submitted that co-accused Kotwal and Jaswant had also been granted bail in criminal appeal nos. 9068 of 2024 and 9093 of 2024 respectively. It has further been submitted that during investigation since no evidence was found against the appellant, his name had, to begin with, been taken out by the Investigating Officer but subsequently on 11.5.2016 on the basis of an order passed under Section 319 CrPC, he had been summoned to face trial. Learned counsel for the appellant further submits that the criminal history of the appellant had been satisfactorily explained in paragraph 6 of the rejoinder affidavit, which was filed on 10.5.2025. He is in jail since 3.8.2024. It has also been submitted that the appellant was on bail during trial and had never misused the liberty of bail. Still further learned counsel for the applicant has submitted that there is very little chance of the appeal being heard and decided expeditiously in the near future and, therefore, the applicant is entitled to be released on bail.

4. In rebuttal, learned A.G.A. has opposed the bail application but could not deny the fact that criminal history of the appellant has been explained properly and the appellant was on bail during trial and had not misused the liberty of bail. He could also not deny the fact that co-accused Jaswant, Kotwal and Hakim have been granted bail by this Court.

5. We have perused the judgment of the court below with the assistance of the learned counsel for the parties. We find that the appellant had not been assigned the main role and it had been assigned to co-accused Hakim, who had been released on bail by this Court and other co-accused persons, namely, Kotwal and Jaswant have also been released on bail. Since no evidence was found against the appellant during investigation, his name was taken out of the purview of investigation but he had been summoned on the basis of an order passed under Section 319 CrPC to face trial. We also find that criminal history of the appellant has been explained satisfactorily and he was on bail during trial and had never misused the liberty of bail. For these reasons, 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.

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

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

8. The realization of 50% fine shall remain stayed till the decision of the appeal.

9. 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.

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

Order on Appeal

11. Order sheet indicates that Trial Court Record has been received. Office to prepare paper book

12. List this appeal on 12.8.2026 for final hearing.

April 9, 2026

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(Jai Krishna Upadhyay,J.) (Siddhartha Varma,J.)