



**HIGH COURT OF JUDICATURE AT ALLAHABAD**

**CRIMINAL APPEAL No. - 10134 of 2024**

Mahendra Pal And 2 Others

.....Appellant(s)

Versus

State of U.P.

.....Respondent(s)

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Counsel for Appellant(s) : Apul Misra, Devvrat Misra, Pankaj Mishra  
Counsel for Respondent(s) : Ashwani Kumar Sachan, G.A., Saurabh Sachan

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**Court No. - 42**

**HON'BLE SIDDHARTHA VARMA, J.**

**HON'BLE JAI KRISHNA UPADHYAY, J.**

**Criminal Misc.Suspension of Sentence Application No. 1 of 2024**

1. Heard Sri Apul Mishra assisted by Sri Devvrat Mishra learned counsel for the applicants, Sri Saurabh Sachan learned counsel for the informant and Sri Muniraj Mehrotra learned A.G.A. appearing for the State.
2. The instant application has been filed under Section 389 Cr.P.C. to suspend the sentence of conviction and to release the applicant on bail in Sessions Trial No. 495 of 2016 arising out of Case Crime No. 127 of 2014, under Sections 307/34, 323/34, 326/34 of Indian Penal Code, Police Station - Kyoladia, District - Bareilly.
3. The prosecution case was that during the measurement of a certain land where even the Lekhpal had reached, in the heat of the moment, a scuffle took place in which Mahendra had hit the injured Rajpal, the P.W.-1.
4. Contention of the learned counsel for the applicants is that at the most the case would travel to being an offence under Section 308 IPC as the overt act of Mahendra Pal could be taken to be an act where there was no premeditation and also there was no mens rea involved. Learned counsel for the applicants has placed reliance on the decision of **Anil Ari vs. State of West Bengal** reported in **AIR 2009 SC 1564** and has submitted that the applicant no.3 is now 70 years of age and that he be, therefore, given the benefit of the law as has been laid down in the judgement of **Anil Ari**

**(supra).**

5. Contention of the learned counsel for the applicants is that the applicants were on bail during trial and they never misused the liberty of bail and further they have no criminal history. Still further learned counsel submits that if the applicants had to be punished under Section 307 IPC then there was no requirement to have punished the offenders for life imprisonment and for that special reason ought to have been given.

6. Learned counsel for the first informant Sri Saurabh Sachan vehemently opposed the application and submitted that, in fact, there was intention to kill the injured and fortunately the sharp side of the spade did not hit the head of the injured but it only went past the nose and, therefore, there was definitely an attempt to kill/murder the injured.

7. Learned AGA Sri Muniraj Mehtrotra has opposed the bail application but he could not deny the fact that the applicants were on bail during trial and they never misused the liberty of bail and also they have no criminal history.

8. Having heard the learned counsel for the parties, we, prima facie, find that the incident occurred due to a sudden scuffle which had happened during the measurement of land. There was no premeditation to kill the injured. The applicants were on bail during trial and they never misused the liberty of bail and also they have no criminal history. We are, therefore, inclined to release the applicants on bail.

9. Consequently, the prayer for bail is accepted. The bail application is allowed.

10. Without expressing any opinion on the merit of the case, let the applicants- **Mahendra Pal, Nandla @ Madanlal @ Bantu and Shiv Dayal** , 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.

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

12. 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 Appeal :**

13. Paper book be prepared.

14. List this case on 17.11.2026.

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

**April 15, 2026**

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