

Court No. - 45

Case :- CRIMINAL APPEAL No. - 2222 of 2012

Appellant :- Vijendra @ Virendra Pal

Respondent :- State of U.P.

Counsel for Appellant :- Mahesh Narain Singh, Amit Kumar Shukla, M.N. Singh

Counsel for Respondent :- Govt. Advocate, Praveen Kumar Srivastava

Hon'ble Pritinker Diwaker, J.

Hon'ble Kshitij Shailendra, J.

Order on II Bail Application:

Heard Sri Amit Kumar Shukla, learned counsel for the appellant and Sri J.K. Upadhyay, learned AGA for the State on this repeat application filed on behalf of appellant seeking suspension of sentence and grant of bail.

First bail application of the appellant was rejected by this Court vide order dated 11.10.2022 for want of prosecution.

As this appeal arises out of impugned judgement and order dated 16.01.2012 passed by Additional Sessions Judge/Special Judge, (SC/ST Act), Pilibhit in Sessions Trial No. 364 of 2007 arising out of Crime No. 424 of 2006 & Sessions Trial No. 365 of 2007 arising out of Crime No. 428 of 2006, P.S. Nyoriya, District Pilibhit convicting the accused appellant and sentencing him under Section 302 of I.P.C. to undergo rigorous imprisonment for life with a fine of Rs. 20,000/-, in default thereof, to undergo three months additional imprisonment, under Section 3(2)(5) of Scheduled Castes and Scheduled Tribes (Prevention of Atrocities) Act to undergo rigorous imprisonment for life with a fine of Rs. 10,000/-, in default thereof, to undergo one year additional imprisonment, under Section 25 of Arms Act to undergo rigorous imprisonment for three years with a fine of Rs. 5000/-, in default thereof, to undergo three months additional imprisonment the bail application of the appellant is being disposed of by this order.

Learned counsel for the appellant submits:

i) that there is no eye witness account to the incident and the appellant has been convicted solely on the basis of weak circumstantial evidence of last seen;

ii) that till date the application of the appellant has not been decided on merits;

iii) that the appellant has already served more than fifteen years of actual jail sentence; the appeal may take some time for its final disposal and in the light of the judgement of Hon'ble Supreme Court in the case of **Saudan Singh Vs. State of U.P., 2022 SCC Online SC 697 and Suleman v. State of U.P., 2022 SCC Online SC 1042**, he is entitled to be released on bail.

On the other hand, learned State counsel opposes the bail application.

Considering the totality of the case in particular the nature of evidence available on record, detention period of the appellant, the fact that the appeal may take some time for its final disposal and judgements of Supreme Court, without further commenting on the merits of the case, we are inclined to release the appellant on bail.

Let appellant Vijendra @ Virendra Pal convicted and sentenced in the above mentioned sessions trial be released on bail on furnishing a personal bond in the sum of Rs.50,000/- (Fifty Thousand) and two sureties each in the like amount to the satisfaction of the court concerned.

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.

List the appeal for final hearing in its due course.

In the meanwhile, Registry to prepare paper book, if not already prepared.

Order Date :- 7.2.2023

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(Kshitij Shailendra,J.) (Pritinker Diwaker,J.)