

**Court No. - 1**

**Case :-** CRIMINAL APPEAL No. - 212 of 2004

**Appellant :-** Fareed In Jail

**Respondent :-** State of U.P.

**Counsel for Appellant :-** G.M.Kamil,B.R.Singh,Manish Bajpai,Pramod Kumar Pandey,Sanjay Kumar Verma,Satish Chandra Shukla,Syed Mohd. Munis Jafari

**Counsel for Respondent :-** Govt.Advocate,Pramod Kumar Pandey

**Hon'ble Ramesh Sinha,J.**

**Hon'ble Mrs. Saroj Yadav,J.**

**(C.M.Application No. 16 of 2022 : Application for correction in the memo of bail application)**

At the outset, Shri Syed Mohd. Munis Jafari, learned Counsel for the applicant/appellant submits that inadvertently, in the memo of C.M.Application No. 117128 of 2019, the name of the applicant/appellant has wrongly been mentioned as 'Fareed Ahmad' in place of 'Fareed' and the caption has also wrongly been mentioned as 'First Application for Bail' in place of 'Fifth Application for Bail', hence the applicant/appellant has filed application for correction (C.M.Application No. 16 of 2022) in this regard.

Shri Pankaj Tewari, learned AGA has no objection in case application for correction (C.M.Application No. 16 of 2022) be allowed.

On due consideration, application for correction (C.M.Application No. 16 of 2022) is allowed.

Learned Counsel for the applicant/appellant is permitted to make necessary correction in C.M.Application No. 117128 of

2019 during the course of the day.

**(C.M. Application No. 117128 of 2019 : Fifth Application for Bail under Section 389 of Cr.P.C.).**

Heard Shri Syed Mohd. Munis Jafari, learned Counsel for the applicant/appellant, Shri Pankaj Tewari, learned AGA for the State and perused the material brought on record, on the fifth application for bail (C.M.Application No. 117128 of 2019).

The submission of the learned Counsel for the applicant/appellant is that the first, second and third application for bail of the applicant/appellant were rejected by the Co-ordinate Bench of this Court vide orders dated 27.05.2005, 30.03.2009 and 19.09.2012, respectively. After that, the fourth application for bail of the applicant/appellant was allowed vide order dated 18.04.2015 and the applicant/appellant was released on bail. He argued that as the counsel for the applicant/appellant had failed to appear in the matter, a Co-ordinate Bench of this Court, vide order dated 21.01.2019, issued non-bailable warrant of arrest against the applicant/appellant. In pursuance thereof, the applicant/appellant has surrendered before the trial Court on 21.08.2019 and since then, he is in jail.

Learned Counsel for the applicant/appellant has further argued that applicant/appellant has already served over 16 years i.e.

from the date of the impugned judgment (07.01.2004) to 18.04.2015 and after that w.e.f. 21.8.2019 to till date; and this appeal is pending since 2004 and is likely to take a couple of years or even more in its final disposal, hence in view of the order of the Apex Court dated 25th February, 2022 passed in Criminal Appeal No. 308 of 2022 arising out of SLP (Crl.) No. 4633 of 2021 : *Saudan Singh Vs. State of U.P.*, the order dated 25.03.2022 passed by the Apex Court in Criminal Appeal No. 491 of 2022 : *Suleman Vs. The State of Uttar Pradesh* arising out of SLP (Crl) No. 1451 of 2022 and the order dated 25.03.2022 passed by the Apex Court in Writ Petition(s) (Criminal) No (s) 52 of 2022 : *Rajendra Singh and others Vs. State of U.P.*, appellant is entitled to be released on bail during pendency of this appeal.

A perusal of the order dated 25.02.2022 passed by the Apex Court in Saudan Singh's case (supra) would reveal that one of the directions issued by the Apex Court, which is relevant, is as follows :-

*"We have put to learned AAG and the learned counsel for the High Court that a list should be prepared of all cases where the person has served out a sentence of 14 years, is not a repeat offender, and in any case if in these cases at one go bail can be granted and cases remitted for examination under the Uttar Pradesh Prisoners Release on Probation Rules, 1938. In all these cases, there is a high possibility that if these people are released, they may not be even interested in prosecuting their appeals.*

*We are quite hopeful that the High Court will adopt the aforesaid practice and thus prevent the Supreme Court to be*

*troubled with such matters."*

Similar view has been expressed by the Apex Court in Suleman's case (supra) and Rajendra Singh's case (supra).

Learned AGA, however, opposed the prayer for bail but could not dispute the aforesaid fact as argued by the learned Counsel for the appellant.

Taking into consideration the aforesaid observations of the Apex Court and the undisputed fact that appellant by now has served more than 16 years of imprisonment in connection with the case, without expressing any opinion on the merits, we are of the view that the appellant is entitled to be released on bail.

Accordingly, the instant fifth application for bail is **allowed**.

Let appellant, **Fareed**, convicted and sentenced by the Additional Sessions Judge-VIII, Faizabad, in Sessions Trial No. 754 of 1999, arising out of Case Crime No. 1839 of 1999 under Sections 147 and 302 readwith section 149 I.P.C., Police Station Kotwali Nagar, District Faizabad be released on bail on furnishing personal bond and two sureties each of the like amount to the satisfaction of the concerned Chief Judicial Magistrate, subject to furnishing undertaking that he will co-operate in the hearing of the appeal.

On acceptance of his bail bond, the lower Court shall transmit

photostat copies thereof to this Court for being kept on the record of this appeal.

Let this appeal be listed for final hearing in due course.

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**(Saroj Yadav, J.) (Ramesh Sinha, J.)**

**Order Date :- 30.3.2022**

Ajit/-