

Court No. - 1

Case :- CRIMINAL APPEAL No. - 1546 of 2005

Appellant :- Ram Yagya And Others

Respondent :- State of U.P.

Counsel for Appellant :- S.M. Abuzar Zaidi, Amar Nath Dubey, Brijesh Kumar Yadav, Mukesh Kumar Sharma, Nagendra Mohan, Ram Pratap Yadav, Rohit Tripathi, S.M. Arshad Rizvi, Savita Tiwari, Shiv Poojan Maurya, Suresh Chandra Srivastava, U.P. Singh, Vidya Bhushan Pandey

Counsel for Respondent :- Govt. Advocate

Hon'ble Ramesh Sinha, J.

Hon'ble Mrs. Saroj Yadav, J.

C.M. Application No. 27194 of 2017

This is the sixth bail application filed on behalf of the applicant/appellant-4 Hari Bhawan and the same is pending for consideration.

Heard Sri Suresh Chandra Srivastava, learned counsel for the appellant No.4 and Mr. Vishwas Shukla, learned A.G.A. for the State-respondent and perused the material brought on record on the instant application for bail.

Learned counsel for the appellant-4 submitted that submitted that this the sixth bail application of the applicant/appellant No.4. First bail application was rejected on 16.12.2005 by Hon'ble O.P. Srivastava and Hon'ble Allah Raham, JJ, Second bail application rejected on 24.03.2006 by Hon'ble O.P. Srivastava and Hon'ble Allah Raham, JJ, Third bail application rejected on 13.12.2006 by Hon'ble O.P. Srivastava and Hon'ble

Allah Raham, JJ, Fourth bail application rejected on 06.08.2007 by Hon'ble A. Matin and Hon'ble Alok Kumar Singh, JJ, Fifth bail application rejected on 01.04.2015 by Hon'ble Surendra Vikram Singh Rathore and Hon'ble Anant Kumar, JJ.

He further submitted that appellant is in jail since 07.11.2005, he has no criminal antecedents and by now he has already served 17 years as under trial and after his conviction in jail; and this appeal is pending since 2005 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 25.02.2022 passed in Criminal Appeal No. 308 of 2022 arising out of S.L.P. (Crl) No. 4633 of 2021: *Saudan Singh Versus State of U.P.*, the order dated 25.03.2022 passed by the Apex Court in Criminal Appeal No. 491 of 2022: *Suleman Versus 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 Versus State of U.P.*, appellant is entitled to be released on bail during the pendency of this appeal.

Learned A.G.A. could not dispute the aforesaid facts as argued by learned counsel for the appellant No.4

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 A.G.A. and the learned counsel for the High Court that a list should be prepared for all the 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).

Taking into consideration the aforesaid observations of the Apex Court and the undisputed fact that the appellant by now has served more than 17 years of imprisonment in connection with case, without expressing any opinion on merits, we are of the view that the appellant No.4 is entitled to be released on bail.

Accordingly, the present application for bail filed on behalf of appellant No.4 is *allowed*.

Let appellant No.4- Hari Bhawan, convicted and sentenced in Sessions Trial No.308 of 1987, arising out of Case Crime No.137 of 1987, under Section 302/34 of IPC Police Station Baldirai, District Sultanpur, be released on bail on his furnishing personal bond with two sureties each in the like amount to the satisfaction of the Court concerned, subject to

furnishing undertaking that he will co-operate in the hearing of the appeal.

On acceptance of bail bonds and personal bond, the lower Court shall transmit photostat copies thereof to this Court for being kept on the record.

Let the paper book be prepared within six months.

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

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

Order Date :- 31.3.2022

A.K. Singh