

**Court No. - 66**

**Case :-** CRIMINAL APPEAL No. - 8461 of 2022

**Appellant :-** Vikram Singh Saini@ Vikar Saini

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

**Counsel for Appellant :-** Aditya Upadhyay

**Counsel for Respondent :-** G.A.

**Hon'ble Samit Gopal,J.**

***Order on Appeal.***

Heard Sri I. K. Chaturvedi, learned Senior Advocate, assisted by Sri Aditya Upadhyay, learned counsel for the appellant and Sri Ankit Srivastava, learned State counsel and perused the record.

This criminal appeal has been filed by the appellant Vikram Singh Saini @ Vikram Saini, against the judgement and order dated 11.10.2022 passed by the Additional District and Sessions Judge/Special Judge MP/MLA Court, Court No. 4, Muzaffarnagar, in Sessions Trial No. 1172 of 2015 (State of U.P. vs. Dharmveer and others) Case Crime No. 407 of 2013, P.S.- Jansath, District Muzaffarnagar, whereby the appellant has been convicted and sentenced for the offence under Section 147 I.P.C. to undergo 01 year imprisonment, under Section 148 I.P.C. to undergo two years imprisonment and fine of Rs. 5000/-, and in default of payment of fine to 02 months additional imprisonment and under Sections 336 r/w 149 I.P.C. to undergo 02 months imprisonment, under Section 323 I.P.C. to undergo 01 month imprisonment, under Section 504 I.P.C. to undergo 01 year imprisonment, under Section 506 I.P.C. to undergo 02 years imprisonment with fine of Rs.5,000/- and in default of payment of fine to undergo 02 months additional imprisonment and under Section 7 Criminal Law (Amendment) Act to undergo 06 months imprisonment. Set off under Section 428 Cr.P.C. has been given. All sentences have been ordered to run concurrently.

Admit.

Summon the lower court record.

Learned counsel for the appellant prays for 24 hours time to file an application supported by an affidavit.

Prayer is allowed.

Let the matter be listed on 21.11.2022 as fresh.

**Order on Criminal Misc. Suspension of Sentence Application.**

Learned counsel for the appellant argued that the maximum sentence awarded to the appellant is two years imprisonment along with fine and default stipulation with conviction and sentence under other Sections. It is argued that the trial court has ordered the sentences to run concurrently. Further the trial court has extended the benefit of set off under Section 428 Cr.P.C. The appellant was on bail during pendency of trial. Learned counsel has further argued that the appellant has been granted interim bail vide order dated 11.10.2022 passed by the Additional Sessions Judge, Court No. 4/Special Judge, MP/MLA Court, Muzaffarnagar by extending the benefit of Section 389(3) Cr.P.C. It is further argued while placing para-22 of the affidavit in support of application for suspension of sentence/bail that the appellant is not a previous convict and in three other criminal cases, he has been acquitted and only one case is pending against him in which he is facing trial. It is argued that the case in which the trial is pending against the appellant, is an off shoot of the present case with regard to offence under Section 153(A) I.P.C. which was separated as sanction was needed for the prosecution of the appellant and as such the same is continuing. It is argued that there is no credible evidence against him. It is further argued that there is no public witness to support the prosecution case. It is a case of no injury.

Learned counsel argued that although the prosecution has shown the recovery of a balkati from the house of the appellant on his pointing out but the same is a false and planted recovery. It is argued that the appellant has been acquitted of the charges levelled against him under Section 307 I.P.C. by the impugned judgement and order.

Per contra, learned State counsel opposed the prayer for suspension of sentence/bail.

After having heard learned counsels for the parties and perusing the records, it is evident that the appellant was on bail during pendency of trial. The appellant has been acquitted for the offence under Section 307 I.P.C. The present case is a case of no injury.

Looking to the facts and circumstances of the case, let the appellant- Vikram Singh Saini @ Vikram Saini, be released on bail in the aforesaid case on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the

court concerned.

The prayer for bail/suspension of sentence is allowed.

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

The realization of fine is not stayed.

(Samit Gopal,J.)

**Order Date :- 18.11.2022**

Naresh