

Court No. - 92

Case :- CRIMINAL APPEAL No. - 5812 of 2019

Appellant :- Dharmendra And 2 Others

Respondent :- State of U.P.

Counsel for Appellant :- Akhilesh Srivastava, Abhishek Mayank, Saksham Srivastava, Subhash Chand, Sunil Kumar Upadhyay

Counsel for Respondent :- G.A.

Hon'ble Arun Kumar Singh Deshwal, J.

Order on 2nd bail application No.7 of 2022.

Sri Abhishek Mayank, learned counsel for the appellants prays that he does not want to press the second bail application No.7 of 2022 and wants to argue on 3rd Bail Application No.15 of 2022 which was incorrectly mentioned as 2nd bail application.

Learned AGA has no objection to the aforesaid prayer.

Prayer is allowed.

The second bail application No.7 of 2022 is **dismissed** as withdrawn.

Order on 3rd Bail Application No.15 of 2022

Heard learned counsel for the applicants-appellants, learned AGA for the State and perused the record.

This criminal appeal has been filed against the judgement and order dated 28.08.2019 passed by the Additional District & Sessions Judge, Court No.01, Aligarh in Session Trial No.595 of 2017 (State Vs. Kailash & others), arising out of Case Crime No.0583 of 2017, under Section 498-a, 304-B/149 IPC, Police Station Quarsi, District Aligarh whereby the appellants have been convicted and sentenced under Section 498A IPC for imprisonment of two years with fine of Rs.5,000/- each in default of payment of fine six months' additional imprisonment, under Section 304B/149 IPC for imprisonment of ten years each, all the sentences are directed to run concurrently.

The appeal was admitted on 20.09.2019.

Contention of learned counsel for the appellants-applicants is that in the dying declaration of deceased Meenu dated 21.04.2017, allegations against the appellants-applicants were that they have tied her with cot and thereafter Jethani (Sarita) set her fire. In the dying declaration, it was also mentioned that deceased Meenu quarrelled with appellants due of milk. It is further submitted that co-accused Kailash (husband) and Sarita (Jethani) have already been enlarged on bail by this Court in Criminal Appeal No.5996 of 2019 vide order dated 08.06.2022 on the ground that they have already completed five years in jail.

On the other hand, learned AGA opposed the prayer on the ground that in the dying declaration, the appellants were assigned role of tying the deceased with cot and thereafter pouring the kerosene oil.

Considering the aforesaid submissions and role of pouring kerosene oil on deceased Meenu was assigned to husband Kailash and there was general allegation against the appellants that they have tied her with cot. The appellants have already completed about 5 years in jail, therefore, the appellants are entitled to be released on bail. Accordingly, the bail application is allowed.

Let the appellants **Dharmendra, Om Prakash and Smt. Chandra** be released on bail in the aforesaid case crime on their furnishing a personal bond and two securities each in the like amount to the satisfaction of court below concerned and the appellants will co-operate in hearing of the appeal and its early disposal. The realization of fine is not stayed.

As soon as personal bond and security bonds are furnished, photocopies of the same are directed to be transmitted to this Court forthwith by trial judge concerned to be kept on the record of this appeal.

Order on appeal

Let the appeal be listed on its turn.

Order Date :- 2.5.2023

A.Kr.