

Salim vs State Of U.P on 24 January, 2025

Author: Abhay S. Oka

Bench: Abhay S. Oka

ITEM NO.45

COURT NO.5

S U P R E M E C O U R T O F
RECORD OF PROCEEDINGS

I N D

Writ Petition (Criminal)

No.513/2024

SALIM

VERSUS

STATE OF U.P. & ORS.

Date : 24-01-2025 This petition was called on for hearing today.

CORAM :

HON'BLE MR. JUSTICE ABHAY S. OKA
HON'BLE MR. JUSTICE UJJAL BHUYAN

For Petitioner(s) :Mr. Brijendra Singh, Adv.
Mr. Shishir Kumar Saxena, Adv.
Mr. D.k. Sabat, Adv.
Mr. Jagdamba Prasad, Adv.
Mr. Dheeraj Singh, Adv.
Mr. Praveen Swarup, AOR

For Respondent(s) :

UPON hearing the counsel the Court made the following
O R D E R

It appears that the petitioner has been convicted for two distinct offences. One is for offence punishable under Sections 302 and 149 of the Indian Penal Code, 1860 (for short, 'the IPC') along with other provisions in which he is undergoing life sentence. He has been convicted for the offence punishable under Section 8 read with Section 20 of the Narcotics Drugs & Psychotropic Substances Act, 1985, where the substantive sentence of the petitioner is 10 years.

17:33:29 IST Reason:

We do not find on record any order directing that both the sentences should run concurrently.

As far as custody certificate is concerned, from the custody certificate at page 123, it appears that the actual sentence undergone by the petitioner for the offence punishable under Section 302 of the IPC is 10 years and 7 months.

In view of Section 475 of the Bhartiya Nyaya Sanhita, 2023 (for short, 'the 2023 Act') in the case of the offence under Section 302 of the IPC unless the petitioner undergoes actual sentence for 14 years, the prayer for remission under Section 473 of the 2023 Act cannot be considered. Similar was the provision under Section 433A of Code of Criminal Procedure, 1973.

We give one more opportunity to the petitioner to file a proper custody certificate on record showing that in case of offence under Sections 302 and 149 of the IPC, he has undergone actual incarceration for a period of 14 years.

To enable the petitioner to do so, list on 21st February, 2025.

(KAVITA PAHUJA)
AR - cum - PS

(AVGV RAMU)
COURT MASTER (NSH)