

Court No. - 15

Case :- CRIMINAL APPEAL DEFECTIVE No. - 1576 of 2021

Appellant :- Dr. Birendra Chaudhary

Respondent :- State Of U.P. And Anr.

Counsel for Appellant :- Indra Pratap Singh, Brij Mohan Sahai

Counsel for Respondent :- G.A., Anita, Sandeep Kumar
Srivastava

Hon'ble Shamim Ahmed, J.

(Order on C.M.Application No.136328/2021; Application for Condonation of Delay)

Heard learned Counsel for the appellant, learned Counsel for the opposite party No.2 and learned A.G.A. for the State-opposite party No.1.

This is an application for condonation of delay in filing the appeal.

The present criminal appeal is reported to be beyond time by 172 days.

The reasons shown in paragraph Nos. 4 to 9 of the affidavit filed in support of application for condonation of delay are sufficient and convincing.

The application is **allowed**. Delay is **condoned**.

Office is directed to allot regular number to this appeal.

(Order on Memo of Appeal)

Heard Shri Indra Pratap Singh, learned counsel for the appellant and Shri Satendra Srivastava, learned A.G.A. for the State.

This criminal appeal under Section 14(A)(1) of Schedule Caste and Schedule Tribes (Prevention of Atrocities) Act, 1989 has been filed by the appellants against the summoning order dated 29.01.2021 and order dated 23.09.2021 passed by learned Additional Session Judge/POCSO Act, Court No.3, Lucknow in Final Report No.79/2019 (Payal Gautam vs. State of U.P.) arising out of Case Crime No.303/2018 under Section 376(2) (Gha) I.P.C., under Section 5/6 POCSO Act and under Section 3(2)(V) SC/ST Act, relating to Police Station-Talkatora, District Lucknow whereby the learned Court below has summoned the

appellant to face trial.

After some argument, learned counsel for the appellant confined his prayer to the extent that a positive direction may be given to learned court below that if a bail application is moved before it by the appellant, the same may be considered and decided expeditiously in accordance with law.

Learned A.G.A. has no objection to the prayer made by learned Counsel for the appellant and submits that a positive direction may be issued to the learned court below to consider and decide the bail application, if moved before it by the appellant, expeditiously in accordance with law after hearing the public prosecutor.

In view of the submissions made by learned Counsel for the parties, if the appellant appears and surrender before the court below and apply for bail within six weeks' from today, the prayer for bail shall be considered and decided expeditiously by the court below in accordance with law after hearing the Public Prosecutor.

With the aforesaid observations/directions, this appeal is finally **disposed of.**

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad or certified copy issued from the Registry of the High Court, Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 5.12.2023

Piyush/-