

Court No. - 53

Case :- CRIMINAL APPEAL No. - 2691 of 2025

Appellant :- Lokendra And 2 Others

Respondent :- State Of U.P. Through Its Principal Secretary
(Home)Lucknow

Counsel for Appellant :- Atul Kumar

Counsel for Respondent :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

Order on appeal

List this appeal for hearing in due course.

Order on Bail Application:

1. This Criminal appeal under Section 415 (2) of the B.N.S.S., 2023 has been preferred by the appellants Lokendra, Vikas and Sunderlal against the conviction and sentence recorded vide judgment and order dated 28.02.2025 passed by the Additional District and Session Judge/Special Judge (POCSO Act), Court No. 1, Muzaffar Nagar in Session Trial No. 421 of 2013 arising out of Case Crime No. 322 of 2012, Police Station-Titavi, District-Muzaffar Nagar. The maximum punishment awarded to the appellants by the trial Court under Section 307/34 I.P.C. is of 5 years and a fine of Rs. 10,000/- each in default of payment one month of additional imprisonment.

2. Heard learned counsel for the appellants-applicants as well as the learned A.G.A. for the State.

3. By means of the bail application, the appellants-applicants seeks suspension of sentence / grant of bail.

4. The prosecution case as unfolded in F.I.R. is that on 18.06.2012 at 20.30 p.m. when Praveen and Neelam and daughter of informant were present in their house, named accused persons Lokendra, Vikas, Sunderlal, Jagroshan carrying lathi, danda and ballam with them made assault upon both of them by the said weapon with the intention to kill them and also hurled abuses. Narendra Singh and Kala came over there and rescued injured children who sustained injuries in the occurrence. F.I.R. was lodged on 22.06.2012 at 20.45 p.m. and the injured children were medically examined. After investigation chargesheet was submitted and after initiation

of prosecution, the present accused appellants were convicted under Section 307/34 I.P.C. and were sentenced here in before.

5. It has been submitted by the learned counsel for the appellants-applicants that the appellants are innocent and have falsely been implicated. It has been further submitted that the conviction and sentence imposed by the learned trial Judge is against the weight of evidence on record. The trial court has misread the evidence on record and convicted the appellants. The prosecution has not been able to prove its case beyond reasonable doubt. It is further submitted that the prosecution has put forward a case which is totally false and frivolous as no such incident occurred as alleged by the prosecution. It is further submitted that there is no cogent and consistent evidence of fact on record. The informant Prakash P.W.-1 is the eye witness of the occurrence, as appears from the perusal of the F.I.R., however, during his deposition as P.W.-1 he claimed himself to be the eye witness of the occurrence and also claimed that he too sustained injuries. It is further submitted that the injuries occurred to the injured children were simple in nature no fracture was found in the injuries of the injured Parveen and the Doctor certified that injury no. 1 which is said to be main injury of injured Parveen was found to be simple in nature by the Doctor. It is further submitted that the other injured Neelam has also sustained simple injuries and no X-ray of her injuries has been performed.

6. It is also submitted that no incriminating evidence has been retrieved by the police during investigation on the pointing out of or from the possession of the present accused appellants. It is also submitted that the F.I.R. of this case was lodged after a delay of four days and there is no cogent explanation for this inordinate delay. It is also submitted that the medical evidence does not corroborate the prosecution version, nature and number of injuries do not tally with the statement of injured persons and eye witnesses of this case. It is further submitted that the accused persons namely, Lokendra and Vikas have one criminal history in case under Goonda Act in the year 2012. Only general role has been assigned to all the appellants in the incident and even separate weapon has also not been assigned to separate the accused persons.

7. Learned trial court absolutely discarded the evidence rendered by the defence whereas two defence witnesses D.W.-1 and D.W. 2 have deposed the true facts regarding the incident. It is also submitted that the learned trial court without appreciating the evidence on record in legal manner recorded the conviction of the

accused appellants in an arbitrary manner ignoring the relevant legal propositions. The case of the prosecution was never proved beyond reasonable doubts. The appellants were on bail during trial and they never misused the liberty of bail. It has been further submitted that the appellants were on bail during trial and have not misused the liberty of bail. Since there is no likelihood of early hearing of the appeal in near future, the appellants may be released on bail pending appeal. Besides the above submissions, learned counsel for the appellants have also tried to touch upon at length the circumstances which led to the false implication of accused - appellants.

8. On the other hand, learned A.G.A. vehemently opposed the bail application and submitted that the weapon assigned to the accused appellants and the injuries sustained by both the injured children tally with each other. P.W. 4 has made specific statement that injuries sustained by injured Neelam was inflicted by some pointed weapon which according to the prosecution was Ballam. In the same manner, the injuries sustained by both injured children were possibly to be inflicted by the use of lathi and danda. It is also submitted that both the injured witnesses have corroborated the prosecution case in their testimony recorded before the court. It is also submitted that there was no possibility for any false implication of the present appellants. The prosecution case is well established and the learned trial court rightly convicted accused appellants and they are not entitled for bail.

9. I have considered the rival submissions made by learned counsel for the parties and have gone through the entire record including the impugned judgment.

10. Having regard to the facts and circumstances of the case, sentence awarded to the appellants, the evidence available on record, nature of injuries sustained by both the injured, delay in lodging the F.I.R. and the findings recorded by the trial court thereon, appellants were on bail during trial, but no instance of misuse of the bail has been brought to the notice of the Court and the fact that the appeal may take some time for its final disposal, without further commenting on the merits of the case, I am inclined to release the appellants on bail.

11. Let the above named accused-appellants be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned.

12. On acceptance of bail bond and personal bonds, the trial court

shall transmit photostat copies thereof to this Court for being kept on record.

13. However, during pendency of the appeal, the execution of sentence / order appealed against shall remain suspended but half of the fine amount, as imposed by the trial Court, shall be deposited by the accused-appellants within a period of one month from the date of release and remaining half fine amount shall remain stayed.

Order Date :- 4.6.2025
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