

HIGH COURT OF JAMMU AND KASHMIR
AT JAMMU
(Through Virtual Mode)

Reserved on : 01.06.2020

Pronounced on : 09.06.2020

CrlM No. 1145/2019
IN
Crl A(D) No. 41/2019

Ankush Pandoh and another

...Appellant(s)/Applicant(s)

Through :- Mr. Sunil Sethi, Sr. Advocate with
Mr. Vaibhav Gupta, Advocate.

v/s

State of J&K and others

...Respondent(s)

Through :- Mr. Amit Gupta, AAG

Coram: HON'BLE MR. JUSTICE RAJESH BINDAL, JUDGE
HON'BLE MR. JUSTICE PUNEET GUPTA, JUDGE

ORDER

1. The present appellants and the appellant in Crl A(D) No. 40/2019 stand convicted for commission of offence under Section 302 RPC and other related charges and have been sentenced by the Court of learned 2nd Additional Sessions Judge, Jammu vide judgment dated 21.08.2019/22.08.2019 and have been directed to undergo life imprisonment for Section 302 RPC and also awarded other sentences and fine. The appellants through the present petition seek staying of the

operation of the judgment of conviction and sentence impugned in the appeal and grant of bail.

2. The objections to the application have been filed wherein the prayer of the appellants is resisted. Learned senior counsel for the appellants, while arguing the application in hand, has sought bail only on ground of long incarceration of the appellants in jail and as there is no possibility of hearing of the appeal in near future. Indeed, learned counsel for the respondents has in line with the objections filed by him has pleaded that this argument of the learned counsel has no merit.
3. The nominal roll of the appellants is also summoned from the Central Jail, Kot Bhalwal, Jammu where the appellants are presently lodged and is on the file. There can be no dispute with the fact that the appellants are in custody for the last more than 10 years and the same is evident from the nominal roll issued by the jail authorities vide dated 03.12.2019 and said period includes the one of custody during trial.
4. Both the sides have cited judgments/orders in support of their respective contentions.
5. This Court in its order dated 06.08.2019 passed in CrIM No 379/2019 filed in CRA No. 26/2016, order dated 17.12.2019 passed in CrIM No. 713/2019 filed in CRA No. 40/2017, order dated 21.05.2019 passed in CrIM No. 03/2018 in CRA No. 10/2011, order dated 28.12.2018 passed in IA No. 01/2016 filed in CRA No. 03/2016 and order dated 06.08.2019 passed in CrIM No. 379/2019 filed in CRA No. 26/2016, suspended the sentence and granted bail to the appellant as he was in incarceration for a very long period and also as there was no possibility of the appeal being heard in near future.

6. In Criminal Appeal No. 1272 of 2015 titled '**Neeru Yadav Vs. State of U.P**', the Hon'ble Supreme Court set aside the order of bail granted in favour of respondent No. 2 by the High Court for offence under Section 302 RPC read with other Sections of the IPC on the ground that the relevant factors have not been taken into consideration while granting bail to the accused.
7. In Cr. Misc. 2nd Bail Application No. 96007 of 2009 filed in Criminal Appeal No. 3294 of 2005 titled '**Girind Singh Vs. State of U.P and others**' decided on 25.01.2010 and CRMA No. 124973 of 2017 in Criminal Appeal No. 403/2015 titled '**Bholu Vs. State of U.P**' decided on 04.05.2018 by the Allahabad High Court, the Court dismissed the 2nd Bail Application moved by the appellant seeking bail also on the ground of his long incarceration in the jail.
8. The High Court has cancelled the summer vacation for the current year as the COVID-19 pandemic has adversely impacted the functioning of the High Court and the subordinate courts in the UTs of Jammu and Kashmir and Ladakh and the appeal in hand can be taken up for final hearing during this period. The apprehension of the learned senior counsel for the appellants that the appeal may not be heard in near future thus stands addressed.
9. In view of the above, the application filed for suspension of sentence and grant of bail stands dismissed.
10. The main appeal shall come up for final hearing on 16.06.2020 in the advance list.

11. The learned counsel for the appellants shall provide translation of Urdu documents of the trial court record in English or Hindi with advance copy to the counsel for other side before the date fixed in the case.

(PUNEET GUPTA) (RAJESH BINDAL)
JUDGE JUDGE

Jammu
09.06.2020
Tarun

Whether the order is speaking ? Yes
Whether the order is reportable? Yes/No

