

CRM-48167-2023

in

CRA-D-813-2019

ANUP @ FOJI V/S STATE OF HARYANA

Present : Mr. Nikhil Ghai, Advocate for the applicant/appellant.

Mr. Ashish Yadav, Addl. A. G., Haryana.

* * *

Through judgment dated 21.08.2019 the applicant-appellant along with his co-accused was convicted by the Additional Sessions Judge, Rohtak (for short - the trial Court) under Sections 396 and 201 read with Section 34 IPC. On the basis of such conviction, through order dated 22.08.2019, he was sentenced by the trial Court to undergo life imprisonment and to pay fine. He challenged such conviction and sentence through an appeal filed before this Court being CRA-D-813-2019. The appeal has been admitted for regular hearing and is pending.

During the pendency of her aforesaid appeal, the instant application has been filed by the applicant-appellant for suspension of his sentence.

State has filed a reply to the application and the custody certificate of the applicant in Court today which are taken on record.

Learned counsel for the applicant-appellant contends that the trial Court has erred in law and in fact by convicting the applicant; there is no evidence with the prosecution which would link the applicant with the murder he is alleged to have committed; the belt allegedly recovered from the applicant with whom the prosecution alleged that the deceased was strangled also does not connect the applicant with the murder he is alleged to have committed as there is no evidence on the record to show that it is that very belt which was used at the time of the alleged murder; even if the recoveries from the applicant are assumed to be effected even that does not prove the prosecution's case that it is the applicant who had murdered the deceased; out of the awarded sentence of life imprisonment, the applicant-appellant has undergone actual custody of 08 years, 02 months and 10 days, out of which the custody period after his conviction is 04 years, 04

months and 07 days and that the appeal filed by the applicant-appellant against his conviction, which has been admitted for regular hearing, is not likely to be heard in the near future.

Learned State counsel admits to the period of incarceration undergone by the applicant-appellant but opposes the grant of bail to him on the ground that the applicant along with his co-convicts, murdered the deceased and that recovery of the belt used in the afore crime and the deceased's ATM card used by the applicant have also been recovered from him.

After considering the totality of the above facts, we are of the opinion that during the pendency of his aforesaid appeal, the applicant-appellant's sentence deserves to be suspended and it is so ordered. Resultantly, he is directed to be released on bail on his furnishing appropriate bail bonds to the satisfaction of the concerned CJM/Duty Magistrate.

However, it is directed that while on bail the applicant-appellant shall own and possess a smart mobile phone which shall be kept on at all times; the phone shall always be with the applicant-appellant; he shall share the number of the phone as also his location with the SHO of the area where the applicant-appellant normally resides; he shall mark his attendance on 1st of each month in the police station and that he shall also not leave the jurisdiction of the concerned police station without the prior permission of the SHO of such police station. The SHO of the concerned police station is further directed to maintain a record with regard to the above and after every six months forward a copy of the same to the concerned Superintendent of Police for information.

The application stands disposed of.

**(DEEPAK SIBAL)
JUDGE**

20.05.2024
sunil yadav

**(DEEPAK MANCHANDA)
JUDGE**