
(2010) 10 AHC CK 0304
In the Allahabad High Court
Case No : Criminal Appeal No. 1608 of 2010

Rajjan @ Narendra Bahadur and Another APPELLANT
Vs
State of U.P. RESPONDENT

Date of Decision : 26-10-2010

Acts Referred:

Criminal Procedure Code, 1973 (CrPC) — Section 389
Penal Code, 1860 (IPC) — Section 304, 308, 323, 34, 504
Scheduled Castes and the Scheduled Tribes (Prevention of Atrocities) Act, 1989 —
Section 3(1)(10), 3(2)(5)

Citation : (2010) 10 AHC CK 0304

Hon'ble Judges : Yogendra Kumar Sangal, J; Abdul Mateen, J

Bench : Division Bench

Judgement

C.M. Application No. 59914 (B) of 2010

1. Heard the learned Counsel for the applicants and the learned Additional Government Advocate on the question of bail in pending appeal u/s 389 Cr.P.C.
2. This is an application u/s 389 Cr.P.C. moved by the applicants, Rajjan alias Narendra Bahadur and Nanhey alias Surendra Bahadur who have been convicted in Criminal Case No. 98 of 1993 after having been charged under Sections 304/34 and 506 IPC and under Sections 3(1)(X) and 3(2)(5) SC.ST Act, P.S. Lalganj, district Pratapgarh vide judgment 24.5.2010 passed by Addl. Sessions Judge F.T.C, Pratapgarh u/s 304 (Part-1) and 506 IPC for a maximum sentence of life imprisonment with fine stipulation thereof.
3. We have gone through the contents of judgment of the lower court, the statement of the complainant who is the son of the deceased and has been examined as P.W. 2 and the post mortem report.
4. As it comes out from the FIR that a dispute had arisen between the accused and the deceased with respect to irrigation of field upon which accused persons waylaid the father of the complainant and inflicted lathi blows upon him due to

which at the initial stage FIR was lodged under Sections 323, 308, 504 & 506 IPC and under Sections 3(1)(X) SC.ST Act, P.S. Lalganj, district Pratapgarh but later on, on the death of Ram Lal deceased, the case was converted u/s 304 IPC.

5. The argument advanced by the learned Counsel for appellants is that FIR which was lodged by P.W. 2 who is said to be the son of the deceased is to the effect that his father was way laid by the accused persons who inflicted lathi blows upon him. In his statement before the court he stated that lathi was got entered into anus of his father and his father also received injuries on the testicles but in medical examination report this fact is not there and the doctor has also denied any injury on the anus and testicles, as such the submission of the learned Counsel for appellant is that since it was a night incident, the appellants have been falsely implicated due to enmity and in any case charge u/s 304 IPC is not made out and also the fact that appellants remained on bail during the course of trial and have not misuse the liberty of bail granted to them and appeal will also take considerable long time in reaching its logical end.

6. We find force in the submission of learned Counsel for appellants and hereby direct that the appellants Rajjan alias Narendra Bahadur and Nanhey alias Surendra Bahadur convicts of the aforesaid Criminal Case be released on bail on each of them furnishing personal bonds and two sureties each in the like amount to the satisfaction of Chief Judicial Magistrate, Pratapgarh.

7. Realization of half of the fine is stayed and remaining half of the fine shall be deposited by the appellants within one month from the date of their release on bail.

8. The court below is directed to transmit to this Court forthwith photocopies of bond and sureties filed by appellants to be preserved in the record maintained here.