
(2011) 09 AHC CK 0195
In the Allahabad High Court
Case No : Criminal Appeal No. 5786 of 2011

Rashid	Vs	APPELLANT
State of U.P.		RESPONDENT

Date of Decision : 30-09-2011

Acts Referred:

Penal Code, 1860 (IPC) — Section 411

Citation : (2011) 09 AHC CK 0195

Hon'ble Judges : Kant Tripathi, J

Bench : Single Bench

Judgement

Shri Kant Tripathi, J.—Heard the Learned Counsel for the Appellant and the learned A.G.A. for the Respondent and perused the judgment and order dated 22.09.2011 passed by the learned Additional Sessions Judge, Court No. 8, Bijnor in S.T. No. 399 of 2011 (State v. Hemraj and Anr.) whereby the Appellant has been convicted and sentenced u/s 411 Indian Penal Code.

2. Admit. Summon lower court record.

3. Learned Counsel for the Appellant submitted that in the connected Criminal Appeal No. 5785 of 2011 based on the same recovery the co-accused has been released on bail today. It was further submitted that the Appellant was on bail during the trial and never abused the same. The alleged recovery has been planted by the police to harass the Appellant. Moreso, there was no public witness present at the time of the alleged recovery. The maximum sentence imposed on the Appellant is of two years. It was further contended that in case the Appellant is not released on bail, the appeal would, in due course, become infructuous as there is no hope of an early hearing of the appeal due to heavy dockets.

4. In my opinion, prima facie, the aforesaid submissions of the Learned Counsel for the Appellant have substance, therefore, it is just and expedient to exercise the discretion in favour of the Appellant.

5. Keeping in view the entire facts and circumstances of the case and submissions of the Learned Counsel for the Appellant and the learned AGA, the Appellant Rashid is released on bail in the offence he has been convicted and sentenced in the aforesaid sessions trial, during the pendency of the appeal on his each furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned and also subject to the following conditions:

(1) The Appellant, if so required, shall attend this Court according to the conditions of the bond executed by him;

(2) The Appellant shall not commit any offence similar to the offence of which he has been convicted;

6. In case of breach of any of the above conditions, the bail shall be liable to be cancelled.

7. The realisation of half of the fine shall remain stayed during pendency of the appeal, provided the Appellant deposits half of the fine within one month.

8. On acceptance of bail bonds and personal bonds, the lower court shall transmit photo state copies thereof to this Court for being kept on the record of this appeal.

9. Let the paper books be prepared.

10. List the appeal for hearing in due course