

---

**(2011) 09 AHC CK 0312**

**In the Allahabad High Court**

**Case No :** Criminal Appeal Defective No. 1555 of 2011

Shanoo

APPELLANT

Vs

State of U.P.

RESPONDENT

---

**Date of Decision :** 09-09-2011

**Acts Referred:**

Penal Code, 1860 (IPC) — Section 365

**Citation :** (2011) 09 AHC CK 0312

**Hon'ble Judges :** Ashwani Kumar Singh, J

**Bench :** Single Bench

**Final Decision :** Disposed Of

---

## **Judgement**

Ashwani Kumar Singh, J.—Admit.

2. Summon the lower court record. The Office is directed to send the requisition forthwith.

3. List the appeal, for its disposal, on its turn.

4. Heard learned Counsel for the Appellant and learned State Counsel on the prayer for bail and perused the record.

5. The Appellant has been convicted u/s 365 I.P.C. and sentenced to four years" R.I. with a fine of Rs. 2000/-and in default of payment, four monts" simple imprisonment.

6. It is submitted by learned Counsel for the Appellant that the trial court has erred in appreciating the evidence on record and wrongly convicted the Appellant. Learned Counsel for the Appellant submits that the Appellant is in jail since the date of judgment, i.e. 29.4.2011 and earlier too during trial, the Appellant remained behind bars for sometime. It is further submitted that, in total, the Appellant has remained behind bars for one-third of the total period of imprisonment of four years, which is the maximum sentence awarded to him. Taking a cue from the case of Kamal v. State of Haryana reported in (2004) 13

SCC 526, the learned Counsel for the Appellant submits that the Appellant may be released on bail. It is also submitted that the Appellant has every hope of success in the appeal which is likely to take a couple of years or even more in its final disposal whereas the speedy justice is the fundamental right of the Appellant.

7. In view of the facts and circumstances, without entering into the merits of the case and particularly having regard to the period of sentence already undergone by the Appellant, I find it to be a fit case for granting bail. Let the Appellant be enlarged on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the Magistrate/court concerned. The fine imposed is stayed till the final disposal of the appeal.

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