

Amar Singh Vs. Ram Singh

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Court : Delhi

Decided On : Mar-01-1993

Reported in : 50(1993)DLT216; 1993(25)DRJ488; 1993RLR318

Judge : D.P. Wadhwa and; Vijender Jain, JJ.

Acts : [Code of Criminal Procedure \(CrPC\) , 1973](#) - Sections 399

Appeal No. : Criminal Appeal Nos. 191 and 199 of 1992, Civil Revision Miscellaneous Appeal No. 227 of 1992 and Ci

Appellant : Amar Singh;state (Delhi Administration)

Respondent : Ram Singh;ram Singh

Advocate for Pet/Ap. : P.P. Grover,; D.R. Sethi,; N.K. Handa and;

Judgement :

D.P. Wadhwa, J.

(1) These two applications have been filed by the appellants under section 389 of the Code of Criminal Procedure, 1973, seeking suspension of their sentences pending the appeals. There are two appellants and two applications. These two appellants, who are brothers, along with their third brother Bhikan, were tried for offences under sections 302/32 Indian Penal Code (IPC) and under section 307/34 Indian Penal Code They are alleged to have committed murder of Raju and

caused grievous injuries to his brother Onkar. The incident is of 17 March 1984. The judgment is dated 19 September 1992. Bhikan has been acquitted after giving him the benefit of doubt and both the appellants convicted under sections 302/34 Indian Penal Code and 307/34 IPC. They have been separately sentenced to undergo rigorous imprisonment for life under the first count and to pay a fine of Rs.500.00 and in default to undergo further rigorous imprisonment for six months, and on second count they were sentenced to undergo rigorous imprisonment for four years and fine of Rs.500.00 and in default to undergo further rigorous imprisonment for six months. Both the appellants are presently undergoing their sentences. It was contended before us that during the trial the appellant Amar Singh was on bail throughout and the appellant Ram Singh remained in custody for 4-1/2 years though he was also on bail for short durations. But now that stand convicted and sentenced.

(2) Learned counsel for the appellants strenuously argued that no case is made out against the appellants and they have been wrongly convicted and sentenced. Reference was made to certain decisions of the Supreme Court as well as of this Court to contend that there has not been proper appreciation of evidence and application of law in the case. We think all these questions will be gone into during the hearing of the appeals. The only relevant judgment on the question of grant of bail would be that of the Supreme Court in Babu Singh and others v. The State of Uttar Pradesh : 1978 CriLJ651 . Here the Supreme Court spelled out the right to personal liberty enshrined under Article 21 of the Constitution visa-vis right of the accused to be released on bail. We have gone through this judgment in detail but we do not think that the present case before us is one where we should exercise our discretion to suspend the sentences imposed on the appellants. Section 389 of the Code does not require the appellate court to record any reasons while refusing to suspend a sentence and reasons are required to be recorded in writing only if the appellate court suspends the sentence and orders the release of the appellant on bail or on his own bond.

(3) It was contended before us that it may take more than five years for the appeal to be heard, and ultimately if the appellants are acquitted their loss could not be compensated in any way. We do not think that on such an apprehension that

appeal would not be heard for more than five years we should suspend the sentences. It is merely an apprehension. If there is any delay in bearing the appeal the appellants shall be well within their rights to move another bail application, but delay, if any, should not be attributable to the appellants or even to their counsel. We shall not be understood as laying principle that delay in disposal of the appeal would itself give a right to the appellants to seek suspension of their sentences. Criteria has been laid in the aforesaid judgment of the Supreme Court in Babu Singh's case. On the question of each case for admitting the accused to bail no case can be precedent for another.

(4) With these observations, these applications are dismissed.

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