

**Court No. - 42**

**Case :-** GOVERNMENT APPEAL No. - 792 of 2018

**Appellant :-** State of U.P.

**Respondent :-** Zameel Alias Fauda And 5 Ors.

**Counsel for Appellant :-** G.A.

**Counsel for Respondent :-** Sandhya Singh, Hemant Sharma, Kapil Kumar, Sandhya Singh

**Hon'ble Arvind Singh Sangwan, J.**

**Hon'ble Ram Manohar Narayan Mishra, J.**

**Order on bail application.**

Heard learned A.G.A. for the State-appellant and learned counsel for the respondents.

This is an application for grant of bail filed on behalf of respondent No.1 Zameel Alias Jaleel @ Fauda for releasing him on bail in Session Trial No.5 of 2012, arising out of Case Crime No.251 of 2011, under Section 302 read with Section 34, 120B IPC, P.S. Anupshahar, District Bulandshahar, which has been filed against the judgment of acquittal dated 13.07.2018.

Learned counsel for the respondent submitted that though the respondent was not served with any of the notice, however, when Non Bailable Warrant was issued by this Court, he was arrested and was put in District Jail Bulandshahar since 22.11.2022.

Learned counsel for the respondent submitted that similarly situated two of the accused persons namely Ali Hasan and Ramjani, respondent Nos. 4 and 5 have already been granted bail vide order dated 22.09.2023 and 19.01.2023 respectively by this Court in Government Appeal No.792 of 2018.

He further submitted that since the applicant-respondent No.1 has no source of income, he could not engage a counsel in time. As custody till today is more than 11 months and only for that reason he could not appear before this Court in pursuance of the notice/warrants issued by this Court.

It is felt surprising that a very strange procedure is followed, normally in an appeal against acquittal filed by the State, if Non Bailable Warrants are issued against the person who had already acquired an order of acquittal, in pursuance to the said warrants, the accused who stands acquitted is produced before the High Court itself, so as to enable him to engage a lawyer or provide a

free legal aid counsel, as the case may be.

However, in the instant case in pursuance to the Non Bailable Warrants, the applicant was arrested and was put in jail without being any information to the Bench about the fate of the applicant-respondents.

Apparently, the custody of the appellant is not only illegal, but amounts to groundless arrest of the applicant.

Noticing the fact that two of the applicants- respondents have already been granted bail by this Court. Hence the **respondent No.1 Zameel Alias Jaleel @ Fauda** convicted and sentenced in the above mentioned sessions trial, be released on bail on furnishing a personal bond in the sum of Rs. 50,000/- (Fifty Thousand) and two sureties each in the like amount to the satisfaction of the court concerned.

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

### **Order on memo of appeal**

List this appeal for final hearing in its due course.

In the meanwhile, Registry to prepare paper book, if not already prepared.

**Order Date :- 20.11.2023**

Ashish/-

(R.M.N. Mishra,J.) (Arvind Singh Sangwan,J.)