Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 339 of 2019

Applicant :- Ramesh Singh Kanyal
Opposite Party :- State of U.P.
Counsel for Applicant :- Huzoor Alam Alvi
Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Shivnath Tilhari, learned A.G.A. for the State and perused the record.

2. The present bail application has been filed by the applicant seeking bail in case crime no.04 of 2018, under Sections 121- A I.P.C., P.S. A.T.S. District Lucknow.

3. None is appearing for the applicant and this bail application is pending since December, 2018, therefore, with a view to decide it on merits I went through the grounds taken by the applicant in his bail application.

4. The grounds taken by the applicant include the submissions that no incriminating material was recovered from his possession; material allegedly recovered from him did not satisfactory reveal that he indulged in any kind of conspiracy before, during and after alleged occurrence; no evidence suggests that there has been any agreement between the accused-applicant and I.S.I.; material collected by I.O. is based on presumptions and suspicion only; what was the details of surveillance have not been disclosed; call details of the phone of the applicant and his wife did not support the prosecution case; there does not exist any person named Tanveer Ahmad; the details of the confidential information allegedly in the knowledge of the applicant have not been given; the applicant is innocent and has not been involved in any criminal activity and has been falsely implicated by ATS, therefore, he is entitled for bail.

5. The application for bail is vehemently opposed by learned A.G.A. on the basis of following submission, argument and material:-

i. On 20.05.2018 the first information report was lodged by the State through Inspector Sri Dinesh Kumar Sharma ATS, U.P. Lucknow against accused Ramesh Singh s/o Aan Singh for the offence under Section 121 A I.P.C. and Section 3/4/5/9 of the Official Secrets Act. According to the F.I.R., ATS U.P. was receiving a secret information that Pakistani ISI was receiving secret information from some Indian people. On the said information the ATS teams were keeping surveillance and received information from Central Defence Information Department that Ramesh Singh, resident of Pithoragarh, Uttarakhand has been trapped by ISI. The information was worked on and it was found that accused Ramesh Singh had gone to Indian Embassy in Pakistan in the year 2015 as domestic assistance where he was trapped by ISI and after his return to India on 02.09.2017 he was still in touch of ISI and was sending secret information related to Indian Army to ISI.

ii. The accused/applicant was arrested on 22 May, 2018. During investigation it revealed that he had gone Pakistan as domestic servant of Brigadier Bhatia. In his statement given under Section 161 Cr.P.C. it has been stated by Bridagier Bhatia that the accused had gone to Pakistan as domestic servant. He stated that he had given a Pakistani SIM and phone to Ramesh Singh Kanyal.

iii. During investigation a mobile phone and SIM card was recovered from the house of Ramesh Singh which was provided to him by the Pakistan ISI. Many secret documents related to Indian army were recovered.

iv. In his statement given under Section 161 and 164 Cr.P.C. the accused has confessed about his relation and transfer of secret information with ISI.

v. After investigation the chargesheet dated 18.08.2018 under Section 121 A I.P.C. was filed against the accused applicant. For the offence under Section 3/4/5/9 of the Official Secrets Act the complaint was filed. The prosecution sanction was granted on 23.08.2018. At present the trial against the applicant is in progress for the offence under Section 121 A I.P.C. and 3/4/5/9 the official Secrets Act and three witnesses have been examined.

6. It is argued that any indulgence on the part of the court may derail the trial and the applicant may take advantage of liberty. The matter is serious and utmost caution is required while dealing in such a sensitive matter.

7. I considered the nature of accusation, the role ascribed to the applicant, severity of punishment, the evidence collected, lack of any plausible explanation as regard the false implication, the probability of fleeing and all attending facts and circumstances. The trial is proceeding and witnesses are being recorded. In my view, there is no good ground for grant of bail to the applicant, therefore it is **dismissed**.

Order Date :- 24.11.2023
Asha

Digitally signed by :-
ASHA
High Court of Judicature at Allahabad,
Lucknow Bench