Court No. - 14

Case :- APPLICATION U/S 482 No. - 11647 of 2024

Applicant :- Shikha Jalan
Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko. And 2 Others
Counsel for Applicant :- Ankit Kumar
Counsel for Opposite Party :- G.A.

Hon'ble Ajai Kumar Srivastava-I,J.

1. Heard learned counsel for the applicant and Ms. Shikha Sinha, learned A.G.A. for the State.

2. The instant application under Section 482 Cr.P.C. has been filed by the applicant for directing the learned trial Court concerned to release the applicant on bail, accepting only one surety in Complaint Case No.13109/2022 (Rashmi Jaiswal vs. Shikha Jalan), under Section 138 of Negotiable Instruments Act, 1881, Police Station Gomti Nagar, Lucknow.

3. Learned counsel for the applicant submits that on 25.04.2024 bailable warrant has been issued against the applicant by learned trial Court, wherein two sureties is required. However, she being unable to arrange two sureties. Therefore, he prays that applicant be enlarged on bail with respect of only one surety.

4. Per contra, learned A.G.A. has opposed the prayer made by learned counsel for the applicant by submitting that the condition of filing two sureties and bonds is in separable part of the order granting bail to the applicant. Therefore, the applicant cannot be exempted from filing sureties bonds as directed by learned trial Court.

5. Having heard learned counsel for the applicant, learned A.G.A. for the State and upon perusal of the record, it transpires that the only grievance of the applicant appears to be that despite offence under Section 138 of N.I. Act being bailable and compoundable and the applicant being a lady is unable to seek bail because various cases have been instituted by the opposite party No.2 against her. Therefore, the applicant is unable to arrange two sureties in each cases instituted against her by opposite party no.2, hence, she prays that she may be permitted to file one surety in this case. It also transpires that on 25.04.2024 bailable warrant has been issued against the applicant.

6. In aforesaid view of the matter, it is provided that in case, applicant appears and seeks bail within a period of four weeks from today, the learned trial court concerned shall dispose of such application on its own merits keeping in view the law laid down by the Hon'ble Supreme Court in **Satender Kumar Antill vs. Central Bureau of Investigation and others** reported in **MANU/SC/1024/2021** having regard to the fact that offence under Section 138 of N.I. Act is bailable and compoundable as also the fact that the applicant is a woman, by keeping the process(s), which was issued against the applicant, in abeyance for the aforesaid period only.

7. It is made clear that in case the present applicant fails to avail the benefit as aforesaid within the stipulated period, the same shall automatically cease to exist without any further reference to this Court.

8. Adverting to the issue of sureties, it is needless to

mention that the acceptance of the sureties and the verification of them is the prerogative of the trial court which is to be accepted by learned trial Court on the basis of its own satisfaction. Therefore, the same in any case could not be interfered with by this Court. Sufficient guidelines in this regard have already been issued by this Court on administrative side to the subordinate Courts. However, as far as, the grievance of the applicant, pertaining to the fact that, she is not in a position to arrange two sureties, the answer to this apprehension and grievance is implicit in Section 486 of Bharatiya Nagarik Suraksha Sanhita, 2023, which is quoted herein below:-

"Declaration by sureties- Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving therein all the relevant particulars."

9. From the perusal of the aforesaid provision contained in Section 486 of BNSS reveals that, a person who is intending to be the surety of any accused person is obliged to declare before the Court that apart from the person to whom he is standing surety, for how many other accused persons, he has stood surety.

10. Therefore, the true import of the Section 486 of BNSS, clearly reflects that, a person may stand surety for more than one accused person and in more than one case. So there appears no bar for a person to stand surety in more than one case and also for more than one accused person. However, as stated earlier, the status, verification and the competence of the surety will always be assessed by the trial court before acceptance.

11. Thus, in view of aforesaid and having regard to overall facts and circumstances of the case, learned trial court in its own discretion may proceed to accept one surety in this case, who is otherwise solvent, after due verification of particulars and status of such sureties.

12. It is needless to mention that while making a decision with regard to the acceptance of the sureties as directed above, the Magistrate or the trial Court would also have due regard to a judgment rendered by the Hon'ble Supreme Court in **order dated 29.10.2018** passed in **Hani Nishad @ Mohammad Imran @ Vikky Vs. State of U.P., Special Leave to Appeal (Crl.) No. 8914-8915 of 2018.**

13. With the aforesaid observations, the instant application under Section 482 Cr.P.C. is finally **disposed of**.

(Ajai Kumar Srivastava-I, J.)

Order Date :- 19.12.2024
A.Dewal

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