Court No. - 36

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 19882 of 2020

Applicant :- Dalveer Singh @ Chhotey
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Ansar Ahmad
Counsel for Opposite Party :- G.A.,Irshad Ahmad

Hon'ble Ali Zamin,J.

Heard learned counsel for the applicant, learned A.G.A. for the State as well as learned counsel for the informant and perused the material on record.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.03 of 2020, under Section 376 AB I.P.C. and Section 5m/6 POCSO Act, Police Station Bhareh, District Etawah.

Learned counsel for the applicant submits that as per F.I.R. version on 5.1.2020 at about 8:00 a.m., her younger daughter aged about 5 years was alone at the house at that time applicant came and committed oral sex. On coming informant back in the house victim narrated the story the informant. He further submits that before the trial court informant has not supported the prosecution case and stated that the applicant has not committed the alleged offence. It is further submitted that applicant has been falsely implicated in the present case. There is no possibility of the applicant of fleeing away from the judicial process or tampering with the witnesses and, in case, the applicant is enlarged on bail, the applicant shall not misuse the liberty of bail. It is next contended that there is no criminal history of the applicant is languishing in jail since 17.01.2020.

Per contra, learned A.G.A. opposed the bail prayer of the applicant but could not dispute the aforesaid facts as stated by learned counsel for the applicant.

Considering the facts and circumstances of the case as well as submissions advanced by learned counsel for the parties, statement of the informant before the trial court, without expressing any opinion on merit of the case, the applicant is entitled for bail, let the applicant- **Dalveer Singh @ Chhotey** involved in aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions :-

(i) The applicant shall file an undertaking to the effect that he will not tamper with the evidence and will not pressurize/intimidate the prosecution witnesses and will cooperate with the trial. The applicant shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 21.10.2020
Jitendra