Court No. - 2

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 16084 of 2019

Applicant :- Raj Kumar @ Saroj
Opposite Party :- State of U.P.
Counsel for Applicant :- Zafar Abbas,Swati Agrawal Srivastava
Counsel for Opposite Party :- G.A.

Hon'ble Suneet Kumar,J.

Heard learned counsel for the applicant and learned A.G.A. appearing for the State.

It is urged that co-accused Seema has been enlarged on bail; as per prosecution version, it is urged that deceased has succumbed to venom bite. It is submitted that applicant is not named in the F.I.R.; the name of the accused surfaced in the statement of the daughter of the deceased, wherein she has assigned the role to mother, co-accused Seema and the applicant of causing injury to the deceased; cause of death, shown in the post-mortem report is throttling; case of the applicant is based on circumstantial evidence and there is no evidence to implicate the applicant in the commission of the offence; it is submitted that applicant is innocent and has been falsely implicated in the present case. It is urged that the applicant has no other reported criminal antecedent and he is languishing in jail since 24.09.2016, there is no likelihood of early disposal of trial and the applicant undertakes that if enlarged on bail, he will never misuse his liberty and will co-operate in the trial.

Learned A.G.A. opposed the prayer for bail.

Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tempering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicant is entitled to be released on bail in this case.

Let the applicant Raj Kumar @ Saroj, involved in Case Crime No. 213 of 2016, under Section 302 I.P.C., Police Station Jahanaganj, District Azamgarh, be released on bail on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned with the

following conditions:-

(i) The applicant shall file an undertaking to the effect that he 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.

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

(vi) The computer generated copy of such order shall be self attested by the counsel of the party concerned.

(vii) 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 view of the extraordinary situation prevailing in the State due to Covid-19, the directions of this Court dated 6.4.2020 passed in Public Interest Litigation No. 564 of 2020 (In re vs. State of U.P.), shall also be complied.
The order reads thus:

"Looking to impediments in arranging sureties because of lockdown, while invoking powers under Article 226 and 227 of the Constitution of India, we deem it appropriate to order that

all the accused-applicants whose bail applications came to be allowed on or after 15th March, 2020 but have not been released due to non-availability of sureties as a consequence to lockdown may be released on executing personal bond as ordered by the Court or to the satisfaction of the jail authorities where such accused is imprisoned, provided the accused-applicants undertakes to furnish required sureties within a period of one month from the date of his/her actual release."

Order Date :- 23.11.2020
Sachin