Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29512 of 2020

Applicant :- Brahma Singh
Opposite Party :- State of U.P.
Counsel for Applicant :- Avneesh Tripathi,Lal Dev,Shikhar Tandon
Counsel for Opposite Party :- G.A.,Vinod Kumar Singh Kushwaha

Hon'ble Vivek Kumar Singh,J.

Heard learned counsel for the applicant, learned counsel appearing on behalf of the informant/complainant, learned AGA- I, for the State and perused the material brought on record.

It is contended by learned counsel for the applicant that applicant is innocent and has been falsely implicated in the present case due to enmity. The applicant is an old man and infirm he has not committed the alleged offence. It is further contended that no specific role has been assigned to the applicant. It is next contended that in fact it is a cross case in which both sides have received injuries and at this stage it cannot be said as to who was aggressor and the incident had taken place at the spur of the moment. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused has also been touched upon at length. It is further submitted that applicant has no previous criminal history and there is also no possibility of applicant either fleeing away from the judicial process or tampering with the witnesses. Applicant is in jail since 26.6.2020, and undertakes that he will not misuse the liberty, if granted.

Learned A.G.A. has vehemently opposed the bail prayer of the applicant without disputing the aforesaid submissions of the learned counsel for the applicant and submitted that in case applicant is released on bail he will misuse the liberty of bail.

Considering the facts and circumstances of the case, nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, *reformative theory of punishment*, and larger mandate of the Article 21 of the Constitution of India, the dictum of Apex Court in the case of **Dataram Singh v. State of U.P. and another, reported in (2018) 2 SCC 22** and without expressing any opinion on the merit of the case, I find it to be a case of bail.

Let applicant- Brahma Singh, be released on bail in Case Crime No. 207 of 2020, under Sections - 147, 323, 504, 307 IPC, Police Station- .Jamania, District- Ghazipur, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:-

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the date fixed after release.

2. He will not tamper with the witnesses.

3. He will not indulge in any illegal activities during the bail period.

The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad. The concerned Court shall verify the authenticity of such computerized copy of the order from the official website of High Court, Allahabad.

Order Date :- 17.11.2020
ssm