Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30564 of 2020

Applicant :- Mangal Chero And Another
Opposite Party :- State of U.P.
Counsel for Applicant :- Rajendra Prasad Singh
Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Joshi,J.

Heard Sri Rajendra Prasad Singh, learned counsel for the applicants, learned A.G.A., for the State and perused the material brought on record.

It is contended by learned counsel for the applicants that applicants are innocent and have been falsely implicated in the present case due to ulterior motive. The applicants have not committed the alleged offence. There is no independent witness of the alleged incident. It is next contended that the ingredients of offences are absent and entire prosecution story is based on false and frivolous allegations. It is further contended that no role of causing specific injury or having fired by alleged country made pistol has been assigned to the applicants by the informant in the FIR or in the statement recorded under section 161 Cr.P.C. It is further submitted that the co-accused Guddu@ Shiv Shanker Jaiswal having identical role to the applicant had already been granted bail by the co-ordinate Bench of the Court vide order dated 4.11.2020 passed in Criminal Misc.Bail Application No.28569 of 2020, therefore, the applicants are entitled for bail on the ground of parity. There is also no possibility of applicants either fleeing away from the judicial process or tampering with the witnesses. Applicants are in jail since 15.7.2020 having criminal history of two cases, which has explained in para-08 to the affidavit filed in support of the bail application and undertakes that they will not misuse the liberty, if granted.

Learned A.G.A. has vehemently opposed the bail prayer of the applicants.

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 applicants- **Mangal Chero and Nandoo Chero** be released on bail in Case Crime No. 175 of 2020, under Sections - 147, 323, 332, 353, 504 IPC, Police Station- Chopan, District- Sonbhadra, on furnishing a personal bond and two heavy sureties (one should be of a family member), each in the like amount to the satisfaction of the court concerned subject to following conditions:-

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

2. They will not tamper with the witnesses.

3. They 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 :- 10.12.2020
Akbar