Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33882 of 2020

Applicant :- Sunita Devi
Opposite Party :- State of U.P.
Counsel for Applicant :- Prabhakar Dubey
Counsel for Opposite Party :- G.A.,Sandeep Kumar

Hon'ble Rajiv Joshi,J.

Heard Sri Prabhakar Dubey, learned counsel for the applicant and Sri Sandeep Kumar, learned counsel for informant and learned AGA for the State.

This bail application has been preferred by the accused-applicant, who is involved in Case Crime No. 234 of 2020, under Section 313 I.P.C. and Section 3 (2) (V) of SC/ST Act, P.S.- Kotwali Bansi, District- Siddharth Nagar.

The prosecution case is that Kumari Kiran daughter of complainant 17 years old was doing the work of cleaning house of one Shamser son of Subrati from one year and on 09.08.2020 all of sudden she feels stomach ach, she was taken to the hospital and it was found that she was pregnant and the doctor aborted the child. The statement of victim recorded under Section 164 Cr.P.C. is on record as Annexure-4 to the affidavit, in which she has stated that Asha and Mummy also accompanied her to Doctor and Doctor injected her to abort the child.

Learned counsel for the applicant in support of her prayer for bail submits that the applicant is innocent and he has been falsely implicated in the present case. It is next submitted that co-accused Vipin Kumar, has been enlarged on bail by the co-ordinate Bench of this Court in Criminal Misc. Bail Application No. 34223 of 2020 vide order dated 21.10.2020. The case of the applicant stands on identical footing, hence the applicant is also entitled for bail on the ground of parity. It is further submitted that the applicant is languishing in jail since 15.08.2020 and if he is released on bail, there is no chance of her absconding or misusing the liberty of bail or tampering with the prosecution witnesses.

Learned AGA and learned counsel for informant have opposed the prayer for bail of the applicant.

Keeping in view the nature of the offence, argument advanced on behalf of the parties, spreading of novel corona virus in jails, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of ***Dataram Singh Vs. State of U.P. and another reported in (2018)3 SCC 22*** and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant, Sunita Devi**,** who is involved in aforesaid crime be released on bail on her furnishing a personal bond and two sureties each in the like amount

to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.

3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

4. In case the applicant has been enlarged on short term bail as per the order of committee constituted under the orders of Hon'ble Supreme Court her bail shall be effective after the period of short term bail comes to an end.

5. The applicant shall be enlarged on bail on execution of personal bond without sureties till normal functioning of the courts is restored. The accused will furnish sureties to the satisfaction of the court below within a month after normal functioning of the courts are restored. In case court below is functioning normally, this condition will not apply and applicant shall be enlarged on bail on execution of bail bond and two sureties to the satisfaction of the court below.

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

7. 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 :- 1.12.2020
S.K.