Court No. - 54

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32915 of 2020

Applicant :- Prempal Giri
Opposite Party :- State of U.P.
Counsel for Applicant :- Ajay Kumar Srivastava,Shivangi Bhargava
Counsel for Opposite Party :- G.A.,Ved Mani Sharma

Hon'ble Dinesh Kumar Singh-I,J.

Heard Sri Ajay Kumar Srivastava, learned counsel for the applicant, and Sri Rishi Chaddha, learned A.G.A. for State and perused the record.

None is present from the side of the informant.

This application under Section 439 Cr.P.C. has been moved seeking bail in Case Crime No. 186 of 2020 under Sections 302 and 34 I.P.C., Police Station Bithari, District Chainpur, during the pendency of trial.

As per F.I.R., which has been lodged by Dinesh Giri, deceased, who is uncle of the informant, is said to have fired upon by co-accused Surendra giri and Monu Giri by country made pistol, while the role of catching hold is assigned to the accused-applicant Prem Pal Giri and co-accused Sunil Giri. In post-mortem report, five injuries are found to have been sustained by the deceased which consist one entry wound and one exit wound of fire arm.

Learned counsel for the applicant has argued that co-accused Sunil Giri @ Sushil Giri has been granted bail as he was assigned role of catching hold and role of the accused-applicant is identical to the role of co-accused Sunil Giri @ Sushil Giri, hence parity is claimed. He is in jail since 26.4.2020. He has criminal history of two cases, which has been explained in supplementary affidavit. If released on bail, he will not misuse the liberty of bail.

Learned AGA has opposed the prayer of bail, but has not controverted the aforesaid fact.

In view of above arguments, looking to the fact that co-accused Sunil Giri @ Sushi Giri whose case is at part with the case of the accused-applicant, has already been granted bail, taking into consideration the quantum of punishment, nature of offence and

period of detention, without expressing any opinion on the merits, this case is found to be a fit case for bail.

Let the applicant Prempal Giri involved in aforesaid crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions that:-

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.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Taking into consideration that Covid-19 is continuing and due to which certified copy would not be possible to be obtained by the applicant, therefore, if a copy of this order downloaded from the official website of Allahabad High Court and self attested by the counsel for the applicant is placed before the Court, the same would be entertained.

Case of the accused-applicant is distinguishable from the case of the co-accused Surendra Giri and Monu Giri.

Order Date :- 24.11.2020
A.P. Pandey