Court No. - 2

Case :- CRIMINAL APPEAL No. - 2808 of 2020

Appellant :- Aman Gupta
Respondent :- State of U.P. and Another
Counsel for Appellant :- Vivek Mishra,Ghan Shyam
Counsel for Respondent :- G.A.

Hon'ble Suneet Kumar,J.

As per office report, notice upon the informant has been duly served.

Heard learned counsel for appellant, learned Additional Government Advocate for the State-respondent and perused the paper book.

This criminal appeal under Section 14-A(1) Scheduled Castes & Scheduled Tribes (Prevention of Atrocities) Act, has been filed challenging the order dated 03.09.2020, passed by the Additional Sessions Judge/Special Judge, SC/ST Act, District Allahabad. in Bail Application No.1243 of 2020 (Aman Gupta Vs. State of U.P.), arising out of Case Crime No. 46 of 2020, under Sections 147, 148, 149, 323, 504, 506, 307 and 325 I.P.C., Section 7 of Criminal Law Amendment Act and Section 3(2)(V) of SC/ST Act, P.S. Cantt., District Allahabad, seeking bail in the aforesaid sections.

Submission of learned counsel for the appellant-applicant is that co-accused Aman Verma and Aryan Gaurav have been enlarged on bail, appellant claims parity. It is urged that the appellant has falsely implicated in this case; injured in his statement has assigned the role of firing to co-accused Sharad; the role assigned to the appellant is merely of presence on the spot along with other co-accused. The appellant is in jail since 29.05.2020 having no criminal history. Therefore, this appeal may be allowed.

Learned Additional Government Advocate opposed the prayer for bail but does not dispute the fact as argued by learned counsel for the appellant.

Considering the facts and circumstances of the case and the arguments advanced on behalf of both the sides and keeping in view the fact that the trial of the case is not likely to be concluded in near future, the appeal has substance hence, appeal as also bail application filed before the court below are allowed, order dated 03.09.2020 is hereby set aside.

Let appellant, Aman Gupta, be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of the court concerned with the following conditions:

1. The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence, if 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;

2. The appellant 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;

3. In case, the appellant misuses the liberty of bail 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.

4. The appellant 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

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

6. The computer generated copy of the order shall be self attested by the counsel of the party concerned.

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 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 :- 24.11.2020

P. Sri.

Digitally signed by Justice Suneet Kumar
Date: 2020.11.24 14:41:42 IST
Reason: Document Owner
Location: High Court of Judicature at Allahabad