Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36313 of 2020

Applicant :- Fony
Opposite Party :- State of U.P.
Counsel for Applicant :- Amar Nath
Counsel for Opposite Party :- G.A.,Akhilesh Kumar

Hon'ble Rajiv Joshi,J.

Heard Sri Amar Nath learned counsel for the applicant and Sri Akhilesh Kumar, learned counsel for informant and learned AGA for the State.

The instant bail application has been filed on behalf of the applicant with a prayer to release him on bail in Case Crime No. 420 of 2020 under Sections- 147, 148, 149, 323, 307, 452, 504 and 506 IPC, Police Station- Deoband, District- Saharanpur, during pendency of trial.

It is submitted by learned counsel for applicant that applicant is innocent and falsely implicated in this very case crime number. It is further submitted that in the FIR general role of assault has been assigned to all the accused persons with the help of lathi and dandas. It is further contended that no specific role has been assigned to any of the accused persons and it is not ascertained who is the author of the injury to caused the injured and all the injuries received by the injured are simple in nature except the injury of injured Lata and Sukhbi. It is next submitted that co-accused Preetam has been enlarged on bail by the co-ordinate Bench of this Court in Criminal Misc. Bail Application No. 35868 of 2020 vide order dated 3.12.2020 The case of the applicant stands on identical footing, hence the applicant is also entitled for bail on the ground of parity. The applicant is in jail since 27.6.2020, having no criminal history as stated in paragraph no. 19 of the affidavit filed in support of bail applicaiton and if he is released on bail, there is no chance of his absconding or misusing the liberty of bail or tampering with the prosecution witnesses.

Learned AGA has 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, Fony who is 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 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 his 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 :- 10.12.2020
S.K.