Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37350 of 2020

Applicant :- Chotu
Opposite Party :- State of U.P.
Counsel for Applicant :- Deepak Rana
Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Joshi,J.

Sri Anand Vikram Singh, Advocate filed vakalatnama on behalf of informant is taken record.

Heard Sri Deepak Rana, learned counsel for the applicant, Sri Anand Vikram Singh, learned counsel for the informant, learned A.G.A for the State and perused the record.

The instant bail application has been filed on behalf of the applicant with a prayer to release him on bail in Case Crime No. 371 of 2020, under Sections- 323, 324, 326, 504 IPC, Police Station- Garhmukteshwar, District- Hapur, during pendency of trial.

It is submitted by learned counsel for applicant that the FIR was lodged on 29.8.2020 in which general and sweeping allegation has been made against all the accused persons including the applicant.

It is further submitted that as the FIR, all the applicants assaulted the injured without any weapons and no specific role has been assigned to the applicant. It is further contended that as per the injury report of the injured namely Sony and Monu, it is apparent that all the injuries are simple in nature and after one and half month a supplementary injury report was submitted by ENT Surgeon, in which injury was also found simple in nature and one injury is grievous as left ear preparation of tympanic membrance at posterior interior quadrant with multiple blood clots over tympanic, incised wound of 3c.m. present over left mastoid region left side lower, It is further submitted that the applicant is innocent and falsely implicated in the present case as no case under Section 326 IPC is made out against the applicant. The applicant is in jail since 29.8.2020 and has no criminal history 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 A.G.A. has opposed the bail prayer of the applicant but

could not dispute the aforesaid fact.

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, **Chotu** who is involved in the aforesaid case crime number 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.

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

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 :- 23.11.2020
Akbar