Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38338 of 2020

Applicant :- Rahul
Opposite Party :- State of U.P.
Counsel for Applicant :- Dhiraj Kumar Pandey
Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Joshi,J.

Heard Sri Dhiraj Kumar Pandey learned counsel for the applicant 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. 311 of 2020 under Sections 60, 60(A) The Uttar Pradesh Excise Act, 1910 and 272, 273, 259, 260, 420, 468, 471, 120-B IPC, Police Station Kutubsher, District Saharanpur, during pendency of trial.

It is submitted that the applicant has been falsely implicated in the aforesaid case. It is further submitted that co-accused- Shiv Kumar, was driving the vehicle, wherein the liquor was seized which he was transporting from the godown of one Pankaj Kumar. It is next submitted that co-accused Shiv Kumar and Pankaj Kumar, have been enlarged on bail by the co-ordinate Bench of this Court in Criminal Misc. Bail Application No. 37336 of 2020, 37712 of 2020 vide order dated 18.11.2020 and 10.11.2020. 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 23.8.2020, has no previous criminal history as stated in paragraph no. 10 of the affidavit filed in support of bail application 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, Rahul 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 :- 16.12.2020
S.K.