Court No. - 10

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39600 of 2020

Applicant :- Ajay Kumar
Opposite Party :- State of U.P.
Counsel for Applicant :- Lal Behari Yadav
Counsel for Opposite Party :- G.A.

Hon'ble Rohit Ranjan Agarwal,J.

Supplementary affidavit filed today is taken on record.

Heard Sri L.B. Yadav, learned counsel for the applicant and learned AGA for the State.

By means of this application, the applicant, who is involved in Case Crime No. 374 of 2020 under Section 307 IPC Police Station Mohammdabad Gohna District Mau is seeking enlargement on bail during the trial.

It is contended that applicant has been falsely implicated in the present case and not named in the FIR, it was during investigation that his name alongwith one other co-accused Pradeep Yadav had come into light and they were arrested by the police on the basis of confessional statement. It is next contended that co-accused Pradeep Yadav has already been enlarged on bail by the court below on 14.10.2020, copy of the order has been brought on record as annexure No. 2 to the supplementary affidavit. Applicant is languishing in jail since 04.07.2020.

Learned A.G.A. while opposing the bail application does not dispute the said fact.

Considering the facts and circumstances of the case, keeping in view the nature of the offence, evidence, complicity of the accused, 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, I am of the view that the applicant has made out a fit case for bail. Hence, the bail application is hereby allowed.

Let the applicant Ajay Kumar be released on bail in Case Crime No. 374 of 2020 under Section 307 IPC Police Station Mohammdabad Gohna District Mau on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant 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.

(iii) In case, the applicant misuses the liberty of bail during trial 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.

(iv) The applicant 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 absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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

(vi) The computer generated copy of this order shall be self attested by the counsel of the party concerned.

(vii) The concerned Court/Authority/Official shall verify the authenticity of this computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

(viii) 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.

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

Order Date :- 7.12.2020
Shekhar