Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39652 of 2020

Applicant :- Yogesh
Opposite Party :- State of U.P.
Counsel for Applicant :- Jitendra Kumar Mishra
Counsel for Opposite Party :- G.A.

Hon'ble Rajiv Joshi,J.

Supplementary affidavit filed today by learned counsel for the applicant is taken on record.

Heard Sri Jitendra Kumar Mishra, learned counsel for the applicant, learned A.G.A. for the State and perused the record.

This instant bail application has been filed for releasing the applicant on bail in Case Crime No. 1374 of 2019, under Sections 307, 504 IPC, P.S. Kotwali Nagar, District Etah, 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 similar role has been assigned to co-accused, Pramod and Jogesh who have already been enlarged on bail by this Court in Criminal Misc. Bail Application Nos.15535 of 2020 and 9903 of 2020 vide orders dated 22.6.2020 and 5.3.2020 and the case of the applicant stands of identical footing, hence the applicant is also entitled for bail on the ground of parity. The applicant is in jail since 29.7.2020 and has criminal history of two cases which has been explained in paragraph no.2 of the supplementary affidavit. Applicant undertakes that 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, **Yogesh** 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 :- 26.11.2020
Deepika