Court No. - 2

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44924 of 2020

Applicant :- Rupesh
Opposite Party :- State of U.P. and Another
Counsel for Applicant :- Manoj Kumar Mishra
Counsel for Opposite Party :- G.A.,Ram Bahadur Singh

Hon'ble Suneet Kumar,J.

Heard learned counsel for the applicant and learned A.G.A. appearing for the State.

The submission of learned counsel for the applicant is that the applicant is an innocent person, he is having no criminal history and is in jail since 16.02.2020.

It is further submitted on behalf of the applicant that on quarrel between the applicant and the complainant's pertains to irrigation, proceedings under Sections 107/116 Cr.P.C. was initiated by the police officials; it is further submitted that on the basis of concocted facts, N.C.R. was lodged by the daughter of the complainant on 30.01.2020, which was registered as N.C.R. No. 3 of 2020, under Section 323, 504, 506 I.P.C., P.S. Jagner, District Agra. In the aforesaid N.C.R., it is alleged that the accused persons came to the house of applicant and started beating the daughter of the informant and thereafter, on the basis of exaggerated facts, subsequent F.I.R. was lodged on 01.02.2020 by the complainant, which was registered as F.I.R. No.8 of 2020, under Sections 147, 323, 354 I.P.C., P.S. Jagner, District Agra. He further submitted that subsequent F.I.R. is not maintainable and he also drew attention of this Court to the medical report of the injured. Therefore, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.
Learned A.G.A. opposed the prayer for bail.

Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tempering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicant is entitled to be released on bail in this case.

This application, accordingly, stands allowed.

Let the applicant Rupesh, involved in Case Crime No. 8 of 2020, under Sections 147, 323, 354 I.P.C. and Section 7/8 POCSO Act, Police Station Jagner, District Agra be released on bail on his furnishing a personal bond with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(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 as 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 the order shall be self attested by the counsel of the party concerned.

(vii) 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 view of the extraordinary situation prevailing in the State due to Covid-19, the directions of this Court dated 6.4.2020 passed in Public Interest Litigation No. 564 of 2020 (In re vs. State of U.P.), shall also be complied.

The order reads thus:

"Looking to impediments in arranging sureties because of lockdown, while invoking powers under Article 226 and 227 of the Constitution of India, we deem it appropriate to order that all the accused-applicants whose bail applications came to be allowed on or after 15th March, 2020 but have not been released due to non-availability of sureties as a consequence to lockdown may be released on executing personal bond as ordered by the Court or to the satisfaction of the jail authorities where such accused is imprisoned, provided the accused-applicants undertakes to furnish required sureties within a period of one month from the date of his/her actual release."

Order Date :- 18.12.2020

P. Sri.