Court No. - 10

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41269 of 2020

Applicant :- Mobin
Opposite Party :- State of U.P.
Counsel for Applicant :- Mehdi Abbas
Counsel for Opposite Party :- G.A.

Hon'ble Rohit Ranjan Agarwal,J.

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

By means of this application, the applicant- Mobin, who is involved in Case Crime No. 276 of 2020, under Sections 2/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station- Jawan, District- Aligarh is seeking enlargement on bail during the trial.

It is contended by learned counsel for the applicant that in the gang chart, only one case has been shown pending against the applicant while learned A.G.A. has pointed out that applicant has a criminal history of three cases. Learned counsel for the applicant contended that in all three cases, applicant is on bail, copy of the bail orders have been brought on record as Annexures-3 and 4 to the affidavit to the bail application. Applicant is languishing in jail since 28.04.2020 and undertakes that he will not misuse the liberty, if granted.

Learned A.G.A. has vehemently opposed the prayer but could not dispute the said facts.

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- **Mobin** be released on bail in Case Crime No. 276 of 2020, under Sections 2/3 U.P. Gangster and Anti Social Activities (Prevention) Act, 1986, Police Station- Jawan, District- Aligarh 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 :- 24.11.2020
V.S.Singh

Digitally signed by Justice Rohit Ranjan Agarwal
Date: 2020.11.25 10:19:12 IST
Reason: Document Owner
Location: High Court of Judicature at Allahabad