Court No. - 83

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46580 of 2020

Applicant :- Rahul Dhawan @ Rahul Jaiswal And Another
Opposite Party :- State of U.P.
Counsel for Applicant :- Upendra Vikram Singh
Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

Heard Sri Upendra Vikram Singh, learned counsel for the applicants and learned AGA for the State.

A first information report was lodged against the applicants as Case Crime No. 327 of 2020 at Police Station- Turkpatti, District- Kushinagar on 12.09.2020, under Sections 419, 420, 467, 468, 471 IPC and 67 Information Technology Act.

The bail application of the applicants was rejected by learned Session Judge, Kushinagar [Place Padarauna] on 02.11.2020.

The applicant is in jail since 12.09.2020 pursuant to the said F.I.R.

Sri Upendra Vikram Singh, learned counsel contends that the applicants have falsely been implicated in the present case. The applicants are not responsible for activating the mobiles. The mobiles are activated after the company carries out the due verification. False recovery has been shown from the applicants. There is no independent witness to the alleged recovery. It is also asserted that apart from the above said cases the applicants do not have any criminal history. The applicants claim parity with the case of other co-accused person who has been granted bail by this

Court on 25.11.2020 in Criminal Misc. Bail Application No. 41530 of 2020.

Learned A.G.A. has opposed the bail application.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicants- Rahul Dhawan @ Rahul Jaiswal and Vishal Jaiswal be released on bail in Case Crime No. 327 of 2020 at Police Station- Turkpatti, District- Kushinagar, under Sections 419, 420, 467, 468, 471 IPC and 67 Information Technology Act, registered on 12.09.2020 at Police Station- Turkpatti, District- Kushinagar, on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence

proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 applicants are 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 them in accordance with law.

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

(vi) The computer generated copy of such 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.

Order Date :- 16.12.2020
Nadeem Ahmad