

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23783 of 2022

Applicant :- Azahar Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Chaudhary,J.

Heard Mr Vinay Saran, learned Senior counsel assisted by Mr Sanjay Singh, learned counsel for applicant and learned A.G.A. and perused records.

The present bail application under Section 439 Cr.P.C. has been filed by the applicant Azahar Khan, who is involved in Case Crime No. 655 of 2019, under Sections 147, 148, 149, 307, 302, 353, 186, 143, 323, 333, 188, 435, 336, 427, 395, 325, 120-B IPC and Section 3/4 of Public Property (Prevention of Damages) Act and Section 7 Criminal Law Amendment Act, P.S. Kotwali, District Rampur.

Prosecution case is that to protest against NRC and CAB Muslim Clerics (Ulemas) of Rampur city had called the public at Eidgah on 21.12.2019. In the night of 20.12.2019, the Muslim clerics of Rampur City assured the police administration that considering the atmosphere of Rampur city, the procession has been cancelled. In the morning of 21.12.2019, the clerics again assured the police that no crowd will be gathered but probably the clerics did not inform the police in this regard. In view of the said protest the police were deployed to maintain law and order on 21.12.2019 at about 11.00 a.m. when the complainant/SHO reached Hathikhana Crossing at the same time, a crowd consisting of 116 persons named in the FIR and thousands unknown persons having arms, sutli bomb and petrol bomb in their hands reached at crossing and made slogans against the police and attacked the police with bricks and Sutli bombs. The police appealed them to disperse but they assaulted the police and also caused damages the police bikes by setting fire and also caused damages to the nearby shops.

It is contended that applicant is not named in the FIR. It is submitted that applicant is Ex-Chairman of the Nagar Panchayat and is a politically active person and, therefore, large number of cases with regard to demonstrations that he had conducted from time to time are lodged against him. In the present case also there was a demonstration going on in which applicant had participated in a peaceful manner and there is no evidence that the applicant had in any manner caused disharmony or any damage to any person or public property. The applicant is in jail since 26.03.2022.

Learned A.G.A. has, however, opposed the prayer for grant of bail but he has not disputed the above contention made by the learned counsel for accused-applicant. However, it is contended by learned AGA that applicant, being a political person, is an influential and effective person and and there are repeated such cases reported against the applicant in

which property was damaged and even in the present case, law and order situation was seriously disturbed and applicant was present during demonstration but he did not take any steps to calm down the situation.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for parties and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let the applicant Azahar Khan, be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of the court concerned subject to following additional conditions, which are being imposed in the interest of justice:-

(1) 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.

(2) 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.

(3) The applicant will not tamper with the prosecution witnesses.

(4) The applicant will not indulge in any illegal activities during the period of bail.

(5) The applicant shall be cautious in future and shall avoid participation in any demonstration which creates law and order situation and in case of involvement of the applicant in any future similar activity, this bail application shall stand automatically cancelled.

(6) In case of breach of any of the above conditions, the trial court would be at liberty to cancel the bail of the applicant.

Order Date :- 18.8.2022

RavindraKSingh

(Vivek Chaudhary, J.)