

Case :- BAIL No. - 2833 of 2020

Applicant :- Mohd. Asjad Gazi & Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Shukla, K.K. Sharma

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Rajeev Singh, J.

Heard learned counsel for the applicants and learned A.G.A for the State of U.P. through video conferencing.

The present bail application has been filed on behalf of the applicant in Case Crime No.157 of 2020 under Sections 188, 268, 269, 270, 467, 468, 420, 471 I.P.C. and Section 3 of Epidemic Disease Act, 1897 and Section 51 (56 as written in the F.I.R.) of Disaster Management Act, 2005, Police Station - Indira Nagar, District - Lucknow with the prayer to enlarge them on bail.

The submission of learned counsel for the applicants is that the applicants are an innocent persons and have been falsely implicated in the case and are in jail since 13.04.2020. It is further submitted on behalf of the applicant that it is alleged in the F.I.R. that on 13.04.2020, when the entire city was closed due to Covid-19 Lock Down, the applicant No.4 was carrying 3 quintals chicken meat in the four-wheeler loader carrying Registration No. UP 32 JN 9108 and other persons were in his association. The carrying chicken meat was in violation of the terms and conditions of Lock Down and the same was also in violation of executive orders issued under Section 144 Cr.P.C., therefore, the applicants were challaned.

Learned counsel for the applicants further submitted that the Joint Secretary, Government of India, Ministry of Fisheries,

Animal Husbandry, Dairying has also issued a clarification in pursuance of its earlier advisory dated 10.02.2020 that many states have not considered live chicks, eggs and meat in the list of commodities to be exempted from the Lock Down. Therefore, on 30.03.2020, the Ministry has requested to States to issue necessary direction to include the live chicks, eggs and meat in the list of commodities to be exempted from the Lock Down.

Learned counsel for the applicants further submitted that the Director of Animal Husbandry, U.P. had also issued a clarification vide letter dated 03.04.2020 that the "chicks, eggs and meat" are also categorised as an Essential Commodities. Therefore no offence is made out under the aforesaid sections. In these circumstances, the applicants are entitled for bail. In case of being enlarged on bail, they will not misuse the liberty of bail.

Learned A.G.A. has opposed the prayer for grant of bail to the applicants and submitted that the applicant No.4 was carrying chicken meat by showing forged pass with the association of other applicants but he conceded the fact that Government of India as well as States has issued advisory and clarifications that chicken meat is an exempted commodity from the Lock Down.

Considering the rival submissions of learned counsel for parties, material available on record as well as totality of fact and circumstances, and without expressing any opinion on the merits of the case, I am of the view that the applicants are entitled to be released on bail.

Let applicants - **Modh. Asjad Gazi, Irshad Raza, Nihaluddin, Mohd. Aqeel and Mohd. Shahid** - be released on bail in the aforesaid Case Crime, on their furnishing personal bond to the

satisfaction of the court concerned forthwith. Applicants are also directed to furnish two reliable sureties each of the like amount to the satisfaction of the court concerned within two months from the date of lifting of Covid-19 lock-down, subject to following conditions:-

(1) Applicants will not try to influence the witnesses or tamper with the evidence of the case or otherwise misuse the liberty of bail.

(2) Applicants will fully cooperate in expeditious disposal of the case and shall not seek any adjournment on the dates fixed for evidence when witnesses are present in the Court.

(3) Applicants shall remain present, in person, before the trial court on the dates fixed for (a) opening of the case, (b) framing of charge; and (c) recording of statement under Section 313 Cr.P.C.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

Order Date :- 20.5.2020

S. Shivhare