

Court No. - 32

Case :- MISC. SINGLE No. - 12237 of 2020

Petitioner :- Kabir @ Kabboo

Respondent :- State Of U.P.Throu.Prin.Secy.Home Lucknow And Ors.

Counsel for Petitioner :- Alok Kumar

Counsel for Respondent :- G.A.

Hon'ble Mohd. Faiz Alam Khan,J.

Heard learned counsel for petitioner and learned A.G.A. for the opposite parties.

The petitioner has filed this writ petition by claiming following prayer:-

"Wherefore, it is most respectfully prayed that this Hon'ble Court may graciously be pleased to grant relief to the petitioner to the extent that direction may be issued to release the petitioner from jail furnishing the personal bonds and two sureties in all seven cases as mentioned in the writ petition."

Learned counsel for the petitioner submits that petitioner has been granted bail in seven criminal cases, which are as under:-

(I) Case Crime No. 0068 of 2018, under Section 420 IPC, Police Station Mahanagar, District Lucknow.

(II) Case Crime No. 0164 of 2018, under Section 392 IPC, Police Station Mahanagar, Lucknow.

(III) Case Crime No. 0282 of 2018, under Section 392 IPC, Police Station Ghazipur, Lucknow.

(IV) Case Crime No. 0296 of 2018, under Section 392 IPC, Police Station Ghazipur, District Lucknow.

(V) Case Crime No. 0338 of 2018, under Section 392 IPC, Police Station Ghazipur, District Lucknow.

(VI) Case Crime No. 0343 of 2018, under Sections 420/406 IPC, Police Station Ghazipur, District Lucknow.

(VII) Case Crime No. 0361 of 2018, under Section 392 IPC, Police Station Ghazipur, District Lucknow.

Learned counsel for the petitioner further submits that above-mentioned seven criminal cases were lodged against him on the basis of false and concocted facts, however, in all seven cases, he has been released on bail but due to Covid 19 pandemic he is not able to arrange two sureties in each case and, therefore, having regard to the law laid down by the Hon'ble Supreme Court he may be permitted to file same sureties in all the seven cases mentioned above.

Learned Additional Government Advocate has not opposed the prayer of the learned counsel for petitioner on the ground that, it

is always the discretion and satisfaction of the trial Court, so far as, the acceptance of the sureties is concerned.

Having heard learned counsel for the rival parties, the only grievance of the petitioner appears to be that, he despite have obtained the orders of the bail in seven cases are not able to come out of the prison, because he is not able to find separate sureties for each case, and a prayer has been made that, he be permitted to file same sureties in all the four cases and a suitable direction in this regard be given to the trial Court.

The acceptance of the sureties and the verification of them is the prerogative of the trial court and the same in any case could not be controlled by this Court. Sufficient guidelines in this regard have been given by the High Court on administrative side to the subordinate Courts. However, as far as, the grievance of the petitioner, pertaining to the fact that, he is not in a position to arrange separate sureties for all seven cases, the answer to this apprehension and grievance is implicit in Section 441-A of Code of Criminal Procedure, which is reproduced as under :-

"Declaration by sureties- Every person standing surety to an accused person for his release on bail, shall make a declaration before the Court as to the number of persons to whom he has stood surety including the accused, giving application therein all the relevant particulars."

Perusal of this Section shows that, a person who is intending to be the surety of any accused person is obliged to declare before the Court that apart from the person to whom he is standing surety, for how many other accused persons, he has stood surety. Therefore, the texture of the Section 441-A of the Cr.P.C., which has been introduced by way of amendment made in the year 2006 clearly reflects that, a person may stand surety for more than one accused person and in more than one case. So there appears no bar for a person to stand surety in more than one case and also for more than one accused person. However, as stated earlier, the status, verification and the competency of the surety will always be assessed by the trial Court before acceptance.

It is therefore directed that, if the same sureties in the seven cases mentioned herein before are placed before the trial Court and they are otherwise competent and their status and other particulars have been verified, the trial Court in its discretion may accept the same in all the seven cases.

With the aforesaid observations, the writ petition is finally ***disposed of.***

Order Date :- 31.7.2020
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