

Court No. - 28

Case :- BAIL No. - 4499 of 2020

Applicant :- Kamran Ameen Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Chandra

Counsel for Opposite Party :- Govt. Advocate

Hon'ble Dinesh Kumar Singh,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. The present bail application has been filed by the applicant in FIR No.472 of 2020 under Sections 505(1)(b), 505(2), 120B, 506, 507 IPC, 66(F) Information Technology Act, Police Station Gomti Nagar, Lucknow.

3. Allegation against the accused-applicant is that he sent a Whats App message on Mob.No.7570000100 which is Social Media Desk of the Police Headquarter, U.P. from his Mob No.882845330.

The message reads as under:-

"cm yogi ko me bomb se marne wala hu musalman k jaan ka dushman h vo"

4. The accused-applicant was arrested and he has been in jail since 26.05.2020. The accused-applicant is a young person of 25 years of age.

5. In pursuance of the order dated 26.11.2020, the accused-applicant has tendered an unconditional apology contained in his affidavit tendered today in the Court which is taken on record.

Paras 4 to 7 of the said affidavit read as under:-

"4. That the accused/applicant hereby tenders his unconditional and unqualified apology for his wrongful act and is sincerely regretting the same.

5. That the accused/applicant hereby undertakes not to commit any such act in future.

6. That it may also be submitted that on account of unprecedented circumstances owing to the spread of coronavirus disease and a nationwide lockdown and the sheer frustration arising from a financial crunch and unemployment being faced by him the accused/applicant was not in a fit state of mind and was unable to realised the nature and repercussion of his act.

7. That under these circumstances the action of the accused/applicant deserves to be condoned and his case deserves to be considered sympathetically."

6. Considering the facts and circumstances of the case, unconditional and unqualified apology tendered by the accused-applicant for his act, I find it to be a fit case for granting bail.

7. Let applicant Kamran Ameen Khan be released on bail in the aforesaid case on his furnishing a personal bond and two sureties of the like amount to the satisfaction of the Magistrate/Court concerned, subject to following conditions :-

(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 as 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 applicant in future will be careful while posting or sending messages and will not repeat the offence of such nature.

Order Date :- 8.12.2020

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