

Applicant :- Salman @ Arman Chaudhary

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Alishah Faruqi, Mohd. Suhai, Razi Ahmad

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

Heard learned counsel for the applicant, learned AGA and perused the record.

The averments as contained in the FIR reveals that on 25.08.2021, a call was received on Police No.112 from Mobile No.7011399765 threatening to kill the Prime Minister as well as Chief Minister. It is also on record that the caller stated that on account of their public statements, he wants to do the same and go to jail. Based upon the said averments, investigation was carried out and the mobile number allegedly used was recovered from the applicant and a case was registered under Section 506, 507, 505(1)(b) IPC and Section 66 of I.T. Act.

Learned counsel for the applicant argues that as per the allegations contained in the FIR, an offence under Sections 506 & 507 is made out, however, the same is triable by Magistrate and is a bailable offence. He argues that no offence from the allegations contained in the FIR can be said to be made out under Section 505 IPC. The said offence is said to be a non-bailable offence. He further argues that no offence can be said to be made out under Section 66 of IT Act. The applicant is in custody since 31.08.2021 and has no criminal antecedent.

Learned AGA on the other hand vehemently argues that the nature of the offence committed by the applicant threaten the fabric of the society. He threatened the elected representative of the country and should be heavily punished. However, learned AGA could not deny the fact that the offences under Sections 506 & 507 IPC are bailable offences.

Considering the fact that *prima-facie* from the FIR in question, an offence can be said to be made out against the applicant under Sections 506 & 507 IPC, both of them being bailable in nature, coupled with the fact that the applicant is in jail since 31.08.2021 and there is nothing on record to demonstrate that the applicant, if enlarged on bail, would adversely affect the trial, the applicant is entitled to be enlarged on bail. In view thereof, the application is ***allowed***.

Let the applicant **Salman @ Arman Chaudhary** be released on bail in FIR No.0319 of 2021, under Sections 506, 507, 505(1) (b) IPC & Section 66 of I.T. Act, P.S. Sushant Golf City, District Lucknow on his furnishing a personal bond with two sureties of Rs.10,000/- each to the satisfaction of court concerned with the following conditions:

1. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and 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.
2. 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.
3. In case, the applicant misuses the liberty of bail 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.
4. 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

Order Date :- 25.11.2021

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