

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8422 of 2022

Applicant :- Susheel Kumar

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lucknow

Counsel for Applicant :- Neera Yadav, Shailendra Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

Heard Sri Rajesh Kumar Yadav, Advocate holding brief of Sri Neera Yadav, learned counsel for the applicant, Sri Dr. Surendra Singh, learned A.G.A. for the State and perused the material placed on record.

Applicant seeks bail in Case Crime No.305 of 2022, under Sections 295, 295-A, 120-B, 34 IPC, Police Station Kotwali Nagar, District Ayodhya, during the pendency of trial.

As per prosecution story, some unknown persons are said to have thrown objectionable meat at Edgah alongwith some objectionable papers on 27.04.2022.

Learned counsel for the applicant has stated that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. In all, seven FIRs' have been lodged against the applicant and other accused persons pertaining to same kind of offence within two days. Learned counsel has further stated that the applicant is not named in the FIR but has been shown to have been arrested from the spot later on. As per the allegations in the FIR, the matter is triable by magistrate and the maximum punishment is three years. The criminal history of the applicant has been explained in para 8 of the affidavit accompanying the bail application. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The applicant is languishing in jail since 04.05.2022. In case, the applicant is released on bail, he will not misuse the liberty of bail.

Learned A.G.A. has vehemently opposed the bail application.

Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of **Dataram Singh Vs. State of U.P. and another** reported in **(2018) 3 SCC 22** and without expressing any opinion on the merits of the case, the Court is of the view

that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant- **Susheel Kumar**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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 IPC.

(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., may be issued and if 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 IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 29.7.2022

Ravi Kant