

Court No. - 16

Case :- BAIL No. - 10178 of 2020

Applicant :- Amar Pal Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Alok Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Heard learned counsel for the accused-applicant as well as learned Additional Government Advocate and gone through the entire record.

2. By means of this application under Section 439 CrPC, the accused-applicant seeks bail in Crime/FIR No.0280 of 2020, under Sections 124A, 501, 504, 505(1)(B), and 506 IPC and 67 Information Technology Act, lodged at Police Station Hazaratganj, District Lucknow.

Allegation, against the accused-applicant, in the FIR is that from his Mobile No.9696755113 a SMS was sent on WhatsApp, UP-112 No.7570000100, making indecent comment against the Chief Minister and, also giving threat that if gangster Mukhtar Ansari was not released within 24 hours, he would kill the Chief Minister.

3. Learned counsel for the accused-applicant submits that the accused-applicant is a truck driver and, he has no concern with Mukhtar Ansari or any other criminal; some person, present at *Dhaba*, where the accused-applicant was taking meal, took his mobile on the pretext of making a call, however, sent WhatsApp message and, thereafter returned mobile of the accused-applicant; the accused-applicant only realized that such a message had been sent when the police arrested him; the accused-applicant has been languishing in jail since 25.09.2020; he has no other criminal history; an affidavit of the accused has been submitted from the jail in which he has specifically stated that he did not send any SMS; he is a law-abiding citizen; he holds the Chief Minister in high esteem and, will always abide the law and regrets for such message being sent from his mobile. Paragraphs 4 and 5 of the affidavit dated 16.01.2021 of the accused-applicant read as under:-

" 4. यह कि शपथकर्ता ने माननीय मुख्यमंत्री, उ0 प्र0 के खिलाफ कोई अमर्यादित टिप्पणी नहीं की है, शपथकर्ता ने राज्य सरकार व भारत सरकार के खिलाफ कोई भी ऐसी बात नहीं की जोकि कानून एवं संविधान के विरुद्ध हो।

5. यह कि शपथकर्ता को माननीय मुख्यमंत्री, उ0 प्र0 व विधि द्वारा पारित कानूनों पर पूर्ण विश्वास है और सरकार के द्वारा बनाये गये कानूनों का पालन शपथकर्ता करता है एवं भविष्य में करता रहेगा। माननीय मुख्यमंत्री, उ0 प्र0 व शासन के प्रति शपथकर्ता की पूर्ण निष्ठा है व भविष्य में रहेगी। किसी प्रकार का कोई ऐसा कृत्य शपथकर्ता द्वारा नहीं किया जायेगा। जिससे कि कानून का उल्लंघन हो। शपथकर्ता जमानत पर छूटने पर कानून का पालन करता रहेगा एवं सरकार व माननीय मुख्यमंत्री, उ0 प्र0 के विरुद्ध कोई आपत्तिजनक टिप्पणी नहीं करेगा।

4. Considering the stands of the accused-applicant and, the fact that he has in unequivocal terms has apologized for his phone being misused and, showed his respect and esteem to the Chief Minister, I find it to be a fit case for grant of bail.

5. Let applicant-**Amar Pal Yadav**, accused of above-mentioned FIR/crime number, be released on bail on **his** furnishing a personal bond and two local and reliable sureties each in the like amount to the satisfaction of the Court concerned with the following conditions, which are imposed in the interest of justice:-

(i) the applicant(s) 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(s) 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(s) misuse(s) the liberty of bail and in order to secure **his** presence proclamation under Section 82 Cr.P.C. is issued and the applicant(s) fail(s) 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; and

(iv) the applicant(s) 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.

The party shall file self attested computer generated copy of this order downloaded from the official website of High Court Allahabad. The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

[D.K. Singh, J.]

Order Date :- 27.1.2021 MVS/-