

Akram vs State Of U.P. on 14 October, 2020

Author: Dinesh Kumar Singh

Bench: Dinesh Kumar Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD, LUCKNOW BENCH

?Court No. - 9

Case :- BAIL No. - 6281 of 2020

Applicant :- Akram

Opposite Party :- State of U.P.

Counsel for Applicant :- Atul Verma,Vinod Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

(Crl. Misc.Application No.56828 of 2020) Counter affidavit is taken on record.

The application stands disposed of.

Order on bail application

1. Present bail application under Section 439 Cr.P.C. has been filed seeking bail in FIR No.350 of 2020 under Sections 307, 467, 468, 471, 504/34 IPC, Police Station Sarojini Nagar, Lucknow.

2. As per the allegations in the FIR, the accused-applicant is a member of Saleem, Rustam and Sohrab Serial Killer Gang. The accused named in the FIR, including the present accused-applicant used to collect money by extortion from the people for the cases against the gang leaders. The police had specific inputs that on the date of the incident the accused were going to extort money. Police

apprehended them and several weapons including 32 bore pistol with one empty cartridge and three live cartridges were recovered from the possession of the present accused-applicant besides other arms from other accused. It is alleged that the accused tried to escape from the place and fired at the police. However, they were apprehended by the police.

3. There was no injury caused to any member of the police party. It is alleged that from the possession of the accused-applicant a forged I.D. of crime branch in his name was also recovered.

4. Mr. Atul Verma, learned counsel for the accused-applicant submits that there is no criminal history of the accused-applicant and, he has been falsely implicated on the basis of some inputs of the police that he belongs to the gang of serial killers. He further submits that there is no evidence to connect the accused-applicant with the aforesaid gang. In respect of recovery of forged I.D. of Crime Branch, it is stated that same cannot be believed inasmuch as all Identity Cards recovered from the accused-applicant and other accused are of the same date. He further submits that even otherwise charge-sheet has been filed, there is no likelihood of the witness(es) being influenced by the accused-applicant. Only police personnel are the witnesses in the case.

5. On the other hand, Mr. Nikhil Singh, learned counsel for the State has submitted that the accused belongs to a dreaded gang of serial killers. They used to extort money from the public and spend the same in the cases of the gang members who are in jail. It is further submitted that after exhorting money from the accused-applicant, it was spent in the cases and also used for their luxury. He further submits that recovery of weapons from the accused and the forged I.Ds. cannot be disbelieved at this stage.

6. On a specific query put to the learned counsel for the State that there is any other case registered against the accused-applicant, he has fairly stated that he has no such instruction and neither there is any such averment in the counter affidavit.

7. I have considered the submissions advanced on behalf of the learned counsels for the accused-applicant and State.

8. There is no criminal history of the accused-applicant. Except for the recovery made from the possession of the accused-applicant of 32 bore pistol with one empty cartridge, three live cartridges and one forged I.D., there is nothing on record to connect him with the alleged gang of three people. Charge-sheet has already been filed in the case. The accused-applicant is in jail since 22.07.2020.

9. Considering the facts and circumstances of the case and the fact that the co-accused have been enlarged on bail from this Court, arguments advanced by the learned counsel for the parties and, without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

10. Let applicant, Akram 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/her 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/her presence, proclamation under Section 82 Cr.P.C. is issued and the applicant(s) fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him/her, in accordance with law, under Section 174-A of the Indian Penal Code.

(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 absence of the applicant(s) 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/her in accordance with law.

11. The party shall file self attested computer generated copy of such 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.

Order Date :- 14.10.2020 prateek