

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48232 of 2020

Applicant :- Sumit

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Rakesh Kuamr Yadav, Abhai Saxena, Chandra Bhan Dubey, Dr. Arun Srivastav

Counsel for Opposite Party :- G.A., Neeraj Seerotiya, Saif Naseem, Sayyed Kashif Abbas Rizvi

Hon'ble Siddharth, J.

Heard learned counsel for the applicant and learned AGA for the State.

The instant bail application has been filed on behalf of the applicant, **Sumit**, with a prayer to release him on bail in Case Crime No. 458 of 2020, under Sections 323, 376-D, 506 IPC and 5/6/17 POCSO Act, 67 of the Information Technology Act, P.S. C.B. Ganj, District - Bareilly, during pendency of trial.

The co-accused, Ankit Gupta, has been enlarged on bail in Criminal Misc. Bail Application No.48593 of 2020. The prayer for release of the applicant on bail on the ground of parity has been made. The applicant is languishing in jail since 03.09.2020.

Considering the fact that the identically placed co-accused has already been released on bail by this Court, without expressing any opinion on the merits of the case, the Court is of the view that it is a fit case for bail. The bail application is allowed.

Learned AGA has opposed the prayer for bail of the applicant.

Having considered the material on record, 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, let the applicant involved in the aforesaid 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 with the following conditions that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order

to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail 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.

(v) 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.

In case of breach of any of the above conditions, the complainant is free to move an application for cancellation of bail before this court.

Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 27.9.2022

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