

Upendra Singh @ Indal Singh vs State Of U.P. on 24 June, 2021

Author: Sanjay Kumar Singh

Bench: Sanjay Kumar Singh

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17459 of 2021

Applicant :- Upendra Singh @ Indal Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Kumar Gupta, Amit Kumar Singh, Amresh Tripathi, Dharmendra

Counsel for Opposite Party :- G.A.

Hon'ble Sanjay Kumar Singh, J.

Keeping in view the pandemic (COVID-19), the Court is functioning in virtual mode under the orders dated 15.6.2021 of Hon'ble the Chief Justice.

Exemption application No. 1 of 2021 is allowed.

Heard learned counsel for the applicant, learned Additional Government Advocate representing the State through video conferencing and perused the record of the case.

By means of this application, the applicant, Upendra Singh @ Indal Singh, who is involved in Case Crime No. 05 of 2020, under Sections 467, 468, 471, 120-B IPC and 66/66D Information Technology (Amendment) Act, 2008 IPC, police station Cyber Crime Police, district Gorakhpur, is seeking enlargement on bail during the trial.

It is submitted by learned counsel for the applicant that initially the first information report was lodged as Case Crime No. 05 of 2020, under Sections 419, 420 IPC and Section 66-C I.T. Act at police station Cyber Crime Police, district Gorakhpur, in which the applicant was granted bail by the Coordinate Bench of this Court vide order dated 15.3.2021 passed in Criminal Misc. Bail Application No. 8623 of 2021, but subsequently after investigation police has submitted charge sheet by adding Sections 467, 468, 471, 120-B IPC and 66/66-D I.T. Act also, therefore the applicant has moved the separate bail application in added sections before the court below, which was rejected vide order dated 8.2.2021.

The main substratum of argument of learned counsel for the applicant is that the applicant did not misuse the liberty of bail granted to him on 15.3.2021. It is also submitted that the applicant was falsely implicated in Case Crime No. 994 of 2020, in which also the applicant has been granted bail vide order dated 6.1.2021 by the Coordinate Bench of this Court in Criminal Misc. Bail Application No. 47107 of 2020.

It is next contended that there is no chance of the applicant of fleeing away from the judicial process or tampering with the prosecution evidence. It is also submitted that the applicant is facing detention since 24.10.2020. Learned counsel for the applicant lastly submitted that if the applicant is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Per contra learned A.G.A. has opposed the bail prayer of the applicant, but does not dispute the fact that the applicant does not misuse the liberty of bail earlier granted to him.

Having considered the submissions of the parties, without expressing any opinion on the merits, let the applicant Upendra Singh @ Indal Singh involved in the aforesaid case, 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 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 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 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.

(iv) 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.

(v) The applicant shall file computer generated copy of this order downloaded from the official website of High Court Allahabad.

(vi) The computer generated copy of this order shall be self attested by the counsel of the party concerned.

(vii) 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.

It is clarified that anything said in this order is limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything said in this order.

Order Date :- 24.6.2021 Sumaira