

## **Badshah @ Riyaz Ahmad vs State Of U.P. on 22 October, 2020**

**Author: Siddharth**

**Bench: Siddharth**

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 34050 of 2020

Applicant :- Badshah @ Riyaz Ahmad

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhishek Mayank

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard Sri Abhishek Mayank, counsel for the applicant and learned A.G.A for the State.

This is third bail application of the applicant.

The first bail application of the applicant was reject ed on 17.11.2016 and second bail application of the applicant was rejected on 13.08.2018.

There is allegation in the FIR regarding robbery of a bag of the informant containing Rs. 4,000/-, two sets of clothes, Nokia mobile set and ATM card, etc. No one was named in the FIR.

Counselfor the applicant has submitted that the applicant wassubsequently arrested and Rs. 3,000/- and one mobile phone was recovered from him.Recovered mobile phone was not got identified from the informant. The applicant is languishing in jail since 29.03.2016. The trial has not been

concluded. Till date no evidence has been lead before trial court by the prosecution. Co-accused, Shadab, has already been enlarged on bail vide Crl.Misc. Bail Application No. 39068 of 2017 on 12.10.2017. There is no possibility of early conclusion of trial in this case on account of spread of novel corona virus and consequent disturbance in the functioning of the court.

Learned A.G.A has opposed the bail application of the applicant but could not dispute the above arguments.

Keeping in view the nature of the offence, argument advanced on behalf of the parties, spreading of novel corona virus in jails, 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- Badshah @ Riyaz Ahmad, in Case Crime No. 429 of 2016, under Sections- 392 and 411 IPC, Police Station- G.R.P., District- Allahabad 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.

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.
2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.
3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
4. In case the applicant has been enlarged on short term bail as per the order of committee constituted under the orders of Hon'ble Supreme Court his bail shall be effective after the period of short term bail comes to an end.
5. The applicant shall be enlarged on bail on execution of personal bond without sureties till normal functioning of the courts is restored. The accused will furnish sureties to the satisfaction of the court below within a month after normal functioning of the courts are restored.
6. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.
7. 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.

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

Order Date :- 22.10.2020 Rohit