

Raj Bahadur Singh vs State Of U.P. on 18 November, 2022

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 92

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49744 of 2022

Applicant :- Raj Bahadur Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sheetala Prasad Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicant as well as learned Additional Government Advocate for the State of U.P. and perused the record.

The present bail application has been filed by the applicant seeking bail in Case Crime No.204 of 2022, under Sections 363, 370, 120-B of IPC, Police Station- Nagar, District- Basti.

As per the prosecution story, at the instance of the first informant a First Information Report was lodged on 10.07.2022 alleging therein that on 10.07.2022 the applicant alongwith two other persons tried to kidnap the minor child aged about 5 years who was the grandson of the first informant.

Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. Further submission is the recovery shown by the police is totally false and fabricated. Further submission is that the victim has not stated anything for the applicant in the statement recorded under section 161 Cr.P.C. It is further stated that there is no criminal history of the applicant except the present case. Further submission is that co-accused Ram Lalit Nishad has already been granted bail by this Court vide order dated 10.11.2022 passed in Criminal Misc. Bail Application No.47317 of

2022. Submission is that the role of the accused is similar to that of co-accused Ram Lalit Nishad and therefore, the present applicant is also entitled to be released on bail on the ground of parity. There is no prospect of trial of the present case being concluded in near future due to heavy dockets. It is also submitted that there is no apprehension that after being released on bail, he may flee from the course of law or may, otherwise, misuse the liberty of bail and the applicant is in jail since 10.07.2022, and the possibility of conclusion of trial in near future is very bleak.

Learned A.G.A. has vehemently opposed the prayer for grant of bail, but he has not disputed the above contention made by the learned counsel for the applicant.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and keeping in mind that co-accused has already been released on bail by this Court and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let applicant- Raj Bahadur Singh, be released on bail in the aforesaid case on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the 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 under Section 229-A of the Indian Penal Code.

(iii) 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 applicant 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.

(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.

Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order in the matter regarding cancellation of bail.

Order Date :- 18.11.2022 Shiv