

Case :- BAIL No. - 1536 of 2021

Applicant :- Nitin Raj

Opposite Party :- State of U.P.

Counsel for Applicant :- Nitin Kumar Mishra, Kamlesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

Counter affidavit filed by the State is taken on record. Heard the learned counsel for the accused/applicant as well as learned A.G.A. for the State and perused the record. This bail application has been moved by the accused/applicant- Nitin Raj for grant of bail, in Case Crime No. 142 of 2020, under Sections 145, 147, 149, 188, 353, 283, 427, 505 (B) IPC & Section 7 of Criminal Law Amendments Act and Section 66 I.T. Act, Police Station Thakurganj, District Lucknow, during trial.

Learned counsel for the accused-applicant while pressing the bail application submits that the accused-applicant has falsely been implicated in the instant case and he has not committed any offence as claimed in the FIR.

It is further submitted that allegations against the applicant in the First Information Report are that the applicant along with other co-accused persons was participating in 'Dharma Pardarshan' against the passage of citizen Amendment Act being held at an heritage site, namely, 'Ghantaghar' and by his acts was also obstructing the smooth flow of traffic. It is also stated in the FIR that applicant and other accused persons were also posting inflammatory posts on social media.

Highlighting the above factual matrix, it is vehemently submitted by learned counsel for the applicant that after lodging of the FIR charge sheet under Sections 145, 147, 149, 188, 353,

283, 427, and 505 (B) IPC and under Section 7 Criminal Law Amendment Act has been submitted against the applicant and all the offences wherein the charge sheet has been submitted are punishable with less than 7 years imprisonment.

It is also submitted that in view of Covid - 19 Pandemic the applicant was released from the prison on 16.3.2020. However, the applicant has again surrendered before the trial court on 12.1.2021 and since then he is lodged in jail, however, in the period wherein the applicant was released from the prison, no complaint of any kind has been made against the applicant by any one or by the informant, who is the S.H.O. of Police Station Thakurganj, Lucknow, pertaining to the conduct of applicant.

It is also submitted that the applicant is a student and is having no criminal antecedents and as the charge sheet has already been submitted, no useful purpose shall be served by further detention of the applicant in the prison.

It is also submitted that other co-accused persons of the crime, except him, were not arrested by the police during investigation and there is no apprehension that the accused-applicant after release on bail, may flee from the process of law or may otherwise misuse the liberty.

Learned A.G.A., however, opposes the prayer for bail of the applicant on the ground that the applicant has taken part in the protests against the Citizenship

Amendment Act passed by the Parliament and had created law and order situation at and around a heritage site and also obstructed the smooth flow of the traffic and also had altercations with by the local police and having regard to the seriousness of the matter, he is not entitled to be released on bail.

Having heard submissions made by learned counsel for the parties and having perused the record, it is evident that in

pursuance of the FIR lodged against the applicant on 17.1.2020 by the S.H.O. Thakurganj, Lucknow, he was arrested and sent to jail. However, on the happening of Covid -19 Pandemic and Nation wide Lock down he was released from the prison on 16.3.2020. He has again surrendered before the trial court on 12.1.2021 and since then he is lodged in prison. Nothing has been mentioned in the counter affidavit filed by the State whereby it may be inferred that during release of the applicant from prison on 18.3.2020 he has indulged himself in any unsocial and unlawful activity. Charge sheet in the matter has already been filed. The presence and the movement of the applicant could be controlled by imposing suitable conditions. The applicant is also not having any previous criminal history and is stated to be student and charged offences are punishable with less than 7 years imprisonment.

Having regard to the overall facts and circumstances of the case and keeping in view the submissions made by learned counsel for the applicant I find substance therein only for the purpose of releasing the applicant on bail. The bail application of the applicant is, thus, allowed.

Let applicant- Nitin Raj involved in the aforesaid case be released on bail on furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

- (i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.
- (ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.
- (iii) The applicant shall not indulge himself in any criminal activity or commission of any crime after being released on bail.

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

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

Order Date :- 8.3.2021

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