

Court No. - 91

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 54468 of 2021

Applicant :- Chhangur Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Kapoor, Virendra Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

Heard Sri Ankit Kapoor and Sri Virendra Kumar Yadav, learned counsel for the applicant and learned AGA for the State and also perused the material placed on record.

By means of the present application, the applicant- Chhangur Yadav, seeks bail in Case Crime No. 417 of 2021, under Sections 500, 501, 505, 419, 420, 468 IPC and Section 66D of Information Technology Act, Police Station-Chaubeypur, District- Varanasi, during the pendency of trial.

As per the prosecution story, the applicant is said to have posted objectionable pictures of the Prime Minister of India on Facebook and whatsapp which enraged the public at large.

It is submitted by the learned counsel for the applicant that the applicant has been falsely implicated in the present case. The applicant has nothing to do with the said offence. There is no criminal history of the applicant. The applicant is languishing in jail since 09.10.2021 and he deserves to be released on bail. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with the trial.

Per contra, Sri Vibhav Anand Singh, learned A.G.A. has vehemently opposed the bail prayer of the applicant by contending that the applicant has enraged and hurt the sentiments of public at large by posting objectionable pictures of the Prime Minister of India. He has further stated that the Prime Minister is the face of the nation before the public at large and saying anything derogatory to him is doing the same to the country, therefore, the applicant does not deserve any indulgence. In case, the applicant is released on bail, he will again indulge in similar activities.

Several other submissions in order to demonstrate the falsity of the allegations made against the applicant has also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at length.

Keeping in view the nature of the offence, 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- Chhangur Yadav, who is involved in the aforementioned case crime number 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.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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 IPC.

(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., may be issued and if 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 IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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, it shall be a ground for cancellation of bail.

It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 10.2.2022/Siddhant