

Court No. - 69

WWW.LIVELAW.IN

**Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1977
of 2021**

Applicant :- Rajendra Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Prabha Shanker Mishra, Paritosh
Sukla, Prabha Shanker Mishra

Counsel for Opposite Party :- G.A., Pankaj
Saksena, Sudhanshu Kumar, Swapnil Kumar

Hon'ble Neeraj Tiwari, J.

Heard Sri Prabha Shanker Mishra, learned counsel for the applicant, Sri Krishna Pahal, learned Additional Advocate General assisted by Sri Pankaj Saksena, learned A.G.A for State and Sri Dilip Kumar, learned Senior Counsel assisted by Sri Swapnil Kumar, learned counsel for injured and perused the material placed on record.

It is submitted by the learned counsel for the applicant that the applicant is wholly innocent and he has been falsely implicated in the present case. The applicant was appointed on the post of ADGC by State Government at District Etah in June, 2002 and worked on the said post till, 2020. Again he was appointed by the State Government on 04.09.2020 on the post of Special Prosecutor and till now continuing on the said post. It is further submitted that applicant is owner of house in question and on that unfortunate date, he was encompassed by the ante social ailment. In fact, the crowd was trying to have illegal possession over the house of applicant, therefore, to defend himself as well as his property, he used his licensee pistol causing injury to his son. It is next submitted that prior to this case, applicant was having criminal history of three cases out of which he has been acquitted in two cases and in one case, proceeding was dropped. Alongwith this case, he was also implicated in one more case in which he has already been granted bail by the court below. There are no chances of the applicant of fleeing away from the judicial process or tampering with the prosecution evidence. It is next contended by the learned counsel for the applicant that the applicant is in jail since 21.12.2020 and in case he is enlarged on bail, he will not misuse the liberty of bail.

Sri Krishna Pahal, learned Additional Advocate General assisted by Sri Pankaj Saksena, learned A.G.A for State as well as Sri Dilip Kumar, learned Senior Counsel assisted by Sri Swapnil Kumar, learned counsel for injured has opposed the

prayer for bail, but could not dispute this fact that applicant was earlier appointed as ADGC by the State Government and as on date, he is still working as Special Prosecutor appointed by the State Government and also about the acquittal in earlier two cases.

Considering the material on record as well as the dictum of Apex Court in the case of ***Dataram Singh Vs. State of U.P. and another, reported in (2018) 3 SCC 22***, larger mandate of Article 21 of the Constitution of India, without expressing any opinion on the merit of the case, let the applicant- **Rajendra Sharma**, involved in Case Crime No. 889 of 2020, under Sections- 147, 148, 149, 289, 336, 504, 506, 353, 307 I.P.C. and section 7 of Criminal Law Amendment Act, Police Station- Kotwali Nagar, District -Etah, be enlarged on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad. The concerned Court/Authority/Jail 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.

This bail order would be subject to the fulfillment of following conditions:-

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. 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;
5. In case, the applicant misuses the liberty of bail 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

6. 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

7. 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.

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

Order Date :- 24.3.2021

Sartaj