

Case :- BAIL No. - 3428 of 2020

Applicant :- Ajay Kumar Lallu

Opposite Party :- State of U.P.

Counsel for Applicant :- Satendra Kumar (Singh), Ashutosh Misra, Karunesh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Attau Rahman Masoodi, J.

Heard Sri Abhishek Manu Singhvi, learned Senior Counsel, assisted by Sri Satendra Kumar Singh, for the accused applicant through video conferencing and Sri Anurag Verma, learned AGA for the State. Perused the record.

The applicant is involved in Crime No. 145 of 2020, under Section 177, 182, 287, 336, 417, 420, 465, 467, 468, 505(1)B(2) read with Section 120B IPC, Police Station Hazratganj, District Lucknow.

This Court looking to the peculiar facts and circumstances of the case and the plight of stranded citizens is constrained to say that judiciary as an organ of the sovereign State acts as a neutral arbiter. It is not the role of justice delivery system to applaud the policy decisions of the government in place or to give an impetus to any criticism which some opposition political movement propagates to be a wiser course on an issue relating to public by large. It is for this reason that the conduct rules refrain the Executive and its public servants from associating with any political party or association while discharging public duties. It is the duty of Executive to ensure good governance and likewise it is an equal duty of the political parties in opposition to keep the governance on its toes.

The Courts of law must maintain a distance from making any estimate of political gain or loss either way but the government as well as opposition both are under a bounden duty to deliver more solutions to the public grievances than conflicts.

In criminal administration of justice, the freedom of life and liberty of a person is the main concern of judiciary. During the recent past, it is true that the Prime Minister of India and the respective Chief Ministers while pursuing their executive responsibility to control the outbreak of pandemic Covid-19, solicited monetary support from public but there was no appeal for any other service in the nature of transport services etc.

Thus, there was no occasion for any voluntary organisation or a

political organisation to have offered transport services or any other service not solicited by the Prime Minister or Chief Ministers of the State.

It is not for this Court to examine whether such a decision in the wisdom of the government was good or bad but what is disturbing is that the government and a political party having some representation in the State of Uttar Pradesh are at loggerheads on an issue which has no legal sanctity. The services which ought to have reached to the sufferers directly rather to the government for which there was no appeal and in that event, any defect in service was open to be viewed as per the procedure prescribed under law.

The Court would simply caution that the outbreak of pandemic Covid-19 calls for a unified efforts by all to curb the sufferings of people instead of ragging up issues to serve none.

It is surprising to note that the accused applicant is already involved in a number of cases registered against him ever since the year 2000 but looking to the ingredients of offences alleged against him in the present case, a case for grant of bail is made out and more particularly when Covid-19 is constantly threatening human life even in safer zones, being it a contagious disease.

The trial court on the strength of reasons assigned, in my humble view, seems to have erred in rejecting the prayer for bail.

Learned AGA has opposed the bail application stating that the investigation is at a nascent stage, however, the accused applicant being on bail in the pending cases is not disputed. The absence of any legal transaction between the State and the accused applicant is equally not disputed.

The accused applicant is in jail since 21.5.2020.

Having heard learned counsel for the parties and keeping in view the overall facts and circumstances of the case, but without expressing any opinion on the merits of the case, let the applicant **Ajay Kumar Lallu** involved in the aforesaid case crime number be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned with the following conditions.

(i) The applicant shall file 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 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 misuses 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 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 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.

Order Date :- 16.6.2020

Fahim/-