

Court No. - 79

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Case :- CRIMINAL MISC. BAIL APPLICATION No. - 248 of 2022

Applicant :- Dlshad @ Dillu

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Chandra Gupta, Shubham Prakash Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Heard Sri Shubham Prakash Gupta, learned counsel for the applicant and learned AGA for the State.

A first information report was lodged against the applicant as Case Crime No. 197 of 2021 at Police Station- Lisarigate, District Meerut under Sections 147, 148, 149, 302, 506 IPC.

The bail application of the applicant was rejected by learned Additional Sessions Judge, Meerut, on 17.11.2021.

The applicant is in jail since 07.09.2021, pursuant to the said F.I.R.

Sri Shubham Prakash Gupta, learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. A general and vague role in the assault has been assigned to the applicant in the FIR. The injured (since deceased) in his statement under Section 161 Cr.P.C. has identified Shahrukh and Salman as the assailants who fired the fire arm shot at the deceased. Attention is called to the postmortem report which opines that the cause of death is fire arm injury. The prosecution case does not allege that the applicant used a fire arm and his role is distinct from Shahrukh and Salman. Learned counsel for the applicant claims congruency in role and seeks parity in relief granted to co-accused Smt. Kamlawati Devi, who has been enlarged on bail by this Court on 07.01.2022 in Criminal Misc. Bail Application No. 49556 of 2021 (Shahrukh Vs. State of U.P.). Apart from the instant case the applicant does not have any criminal history. Lastly it is submitted by learned counsel for applicant that the applicant shall not abscond, and will fully cooperate in the criminal

law proceedings. The applicant shall not tamper with the evidence nor influence the witnesses in any manner.

Sri I.P. Srivastava, learned AGA for the State could not satisfactorily dispute the aforesaid submissions from the record. Learned AGA does not contest that the applicant does not has any criminal history as disclosed in the bail application.

Courts have taken notice of the overcrowding of jails during the current pandemic situation (**Ref.: Suo Motu Writ Petition (c) No. 1/2020, Contagion of COVID 19 Virus in prisons before the Supreme Court of India**). These circumstances shall also be factored in while considering bail applications on behalf of accused persons.

I see merit in the submissions of learned counsel for the applicant and accordingly hold that the applicant is entitled to be enlarged on bail.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Dilshad @ Dillu be released on bail in Case Crime No. 197 of 2021 at Police Station- Lisarigate, District Meerut under Sections 147, 148, 149, 302, 506 IPC, on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence during the trial.
- (ii) The applicant will not influence any witness.
- (iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
- (iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case

so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

The computer section is directed to correct the cause title in conformity with the pleadings.

Before parting the impediment created by the registry official namely (Sandeep Kumar, Assistant Registrar, deputed in fresh filing section) in the hearing of the bail application has to be noticed. Specific order was passed by this Court on 19.01.2022 directing that this matter be placed in the list of fresh cases on 20.01.2022. The orders are explicit and bear no ambiguity. However neither the list of fresh cases depicting the aforesaid case was prepared nor the file was sent to the court. The Bench Secretary of this Court enquired from the said official namely (Sandeep Kumar, Assistant Registrar, deputed in fresh filing section) about his failure to prepare the list of fresh cases depicting the said case and also not sending file to the Court. The said official replied that the order was not liable to be complied with due to various administrative instructions and refused to send the file or prepare the list. When this was brought to the notice of the Court the Court directed that the official be summoned. The said official appeared before this Court. When the Court enquired about his failure to prepare the list and to sent the file to the Court, he reiterated his stand by stating that the order cannot be complied with due to administrative instructions. The said official remained defiant and reiterated his stand. Subsequently the Court summoned the Registrar General of this Court to account for non compliance of the order of the Court. The Registrar General appeared in Court and also ensured prompt compliance of orders of the Court. The counsel was duly informed and the bail application was taken up and heard.

The conduct of the said official (Sandeep Kumar, Assistant Registrar, deputed in fresh filing section) is clearly contumacious. However this Court does not deem it appropriate to expend scarce judicial time by drawing contempt against the official. Judicial time has to be used more fruitfully for the purposes of dispensing justice. But the Court cannot remain silent spectator to such acts of grave misconduct and deliberate defiance of orders passed by this Court by officers of the registry. Such conduct interferes with the administration of justice. In case such officials are given free run, public at large will lose faith in the judicial system. Hence in the interest of justice and better administration of this Court it is directed that departmental action be initiated forthwith against concerned employee as per law. It is also open to the High Court to consider whether relaxing of qualitative requirements and eligibility criteria for appointments and promotion to responsible posts in the registry of this Court is conducive to good administration of justice or not.

Order Date :- 24.1.2022

Pravin