

Court No. - 2

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Case :- CRIMINAL MISC. BAIL APPLICATION No. - 21593 of 2021

Applicant :- Phoolchandra Yadav And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Shivam Yadav, Akhilesh Singh

Counsel for Opposite Party :- G.A.

Hon'ble Suneet Kumar, J.

learned counsel for the applicants and learned A.G.A. appearing for the State through video conferencing.

As per prosecution case, 12 nominated and 10-12 unknown persons are said to have raised slogans against the Chief Minister and burnt his effigy; applicants are named in the F.I.R. It is urged by learned counsel for the applicants that six co-accused in the similar circumstances have been enlarged on bail, it was a political protest; the ingredients of the offence under Section 124A I.P.C. are not made out. It is further submitted that the applicants are languishing in jail since 17.03.2021, there is no likelihood of early disposal of trial and the applicants undertake that if enlarged on bail, they will never misuse liberty and will co-operate in the trial.

Learned A.G.A. opposed the prayer for bail.

Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tempering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicants are entitled to be released on bail in this case.

Let the applicants Phoolchandra Yadav, Aashutosh Agrahari and Suraj Singh, involved in Case Crime No. 101 of 2021, under Sections 147, 188, 269, 341, 124A I.P.C, Section 66 I.T. Act and Section 6 of United Provinces Special Power Act, 1932, Police Station Karvi, District Chitrakoot be released on bail on their furnishing personal bonds with two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicants shall file undertakings to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation,

then, the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 them in accordance with law.

(v) The party shall file computer generated copy of this order downloaded from the official website of High Court Allahabad.

(vi) The computer generated copy of the order shall be self attested by the counsel of the party concerned.

(vii) The concerned Court/Authority/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.

In view of the extraordinary situation prevailing in the State due to Covid-19, the directions of this Court dated 6.4.2020 passed in Public Interest Litigation No. 564 of 2020 (In re vs. State of U.P.), shall also be complied.

The order reads thus:

"Looking to impediments in arranging sureties because of lockdown, while invoking powers under Article 226 and 227 of the Constitution of India, we deem it appropriate to order that all the accused-applicants whose bail applications came to be allowed on or after 15th March, 2020 but have not been released due to non-availability of sureties as a consequence to lockdown may be released on executing personal bond as ordered by the Court or to the satisfaction of the jail authorities where such accused is imprisoned, provided the accused-applicants undertakes to furnish required sureties within a period of one month from the date of his/her actual release."

Order Date :- 22.6.2021

P. Sri.