

Court No. - 67

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12440 of 2021

Applicant :- Panne Lal @ Algoo

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Kumar, Rajnish Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Rahul Chaturvedi, J.

Heard Sri Rajnish Dubey, learned counsel for the applicant as well as learned A.G.A for the State and perused the record.

By means of this application, the applicant who is involved in case crime no.604 of 2019, under Section 302 IPC, Police Station- Kotwali, District- Maharajganj is seeking enlargement on bail during the trial. The applicant is languishing in jail since 10.10.2019.

It is borne out from the record that the FIR has been lodged against Panna Lal @ Algoo, the present applicant and his cousin Deepu. From the text of the FIR, it is clear that the deceased happens to be the father of the applicant, who wants to sell it off two decimals of land, so that he may get himself treated. This was objected and resisted by the named accused person. The post mortem report reveals that deceased has sustained as many as nine injuries over his person. General role has been attributed to both the named accused persons. Co-accused Deepu has been admitted on bail by the coordinate Bench of this Court in CrI. Misc. Bail Application No. 6316 of 2020 vide order dated 02.12.2020. Contention raised by the counsel that the case of the applicant stands on similar footing qua Deepu. There is no recovery of any incriminating material from the possession of the applicant.

Learned A.G.A opposed the prayer for bail but could not dispute the aforesaid facts and the legal submissions as argued by the learned counsel for the applicant.

Keeping in view the nature of the offence, evidence, complicity of the accused and submissions of learned counsel for the parties, I am of the view that the applicant has made out a case for bail.

Let the **applicant-Panne Lal @ Algoo**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) THE APPLICANT/APPLICANTS SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE/SHE/THEY SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE FIXED FOR EVIDENCE WHEN THE WITNESSES IS/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/APPLICANTS SHALL REMAIN PRESENT BEFORE THE TRIAL COURT ON EACH DATE FIXED, EITHER PERSONALLY OR THROUGH HIS/HER/THEIR COUNSEL. IN

CASE OF HER ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIS/HER/THEIR UNDER SECTION 229-A IPC.

(iii) IN CASE, THE APPLICANT/APPLICANTS MISUSES THE LIBERTY OF BAIL DURING TRIAL AND IN ORDER TO SECURE HER PRESENCE PROCLAMATION UNDER SECTION 82 CR.P.C., MAY BE ISSUED AND IF APPLICANT/APPLICANTS FAILS TO APPEAR BEFORE THE COURT ON THE DATE FIXED IN SUCH PROCLAMATION, THEN, THE TRIAL COURT SHALL INITIATE PROCEEDINGS AGAINST HIS/HER/THEIR, IN ACCORDANCE WITH LAW, UNDER SECTION 174-A IPC.

(iv) THE APPLICANT/APPLICANTS 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/APPLICANTS IS/ARE 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 HIS/HER/THEIR IN ACCORDANCE WITH LAW.

(v) THE TRIAL COURT MAY MAKE ALL POSSIBLE EFFORTS/ENDEAVOUR AND TRY TO CONCLUDE THE TRIAL WITHIN A PERIOD OF ONE YEAR AFTER THE RELEASE OF THE APPLICANT/APPLICANTS.

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

Since the bail application has been decided under extra-ordinary circumstances, thus in the interest of justice following additional conditions are being imposed just to facilitate the applicant/applicants to be released on bail forthwith. Needless to mention that these additional conditions are imposed to cope with emergent condition-:

1. The applicant/applicants shall be enlarged on bail on execution of personal bond without sureties till normal functioning of the courts is/are restored. The accused will furnish sureties to the satisfaction of the court below within a month after normal functioning of the courts are restored.
2. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.
3. The computer generated copy of such order shall be self attested by the counsel of the party concerned.
4. 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.

Order Date :- 31.5.2021/Abhishek Sri.