

Court No. - 66

Case :- CRIMINAL MISC. BAIL
APPLICATION No. - 48168 of 2021

Applicant :- Abdul Kadeer Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Kartikeya
Bhargava, Swapnil Sinha

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot, J.

Heard Shri Swapnil Sinha, learned counsel for the applicant and Shri Rajesh Mishra, learned brief holder for the State.

A first information report was lodged as Case Crime No.0378 of 2021 at Police Station-Kotwali District-Jhansi under Sections 420, 406 IPC.

The bail application of the applicant was rejected by learned Special Judge (Gangsters Act)/Additional Sessions Judge, Jhansi, on 30.10.2021.

The applicant is in jail since 09.10.2021, pursuant to the said F.I.R.

Shri Swapnil Sinha, learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. There are two cases depicted in the gang chart being case

crime No. 657/19 and 658/19. Charge sheets were filed in both the cases. However, the trial proceedings in both the cases have been stayed by this Court in application under Section 482 Cr.P.C. No. 18653 of 2021 and Application under Section 482 Cr.P.C. No. 18482 of 2021. Learned counsel for the applicant has explained the criminal history of the applicant and further contends that the applicant has become a soft target and easy scapegoat for the police authorities who repeatedly nominate him in various false cases only to burnish their professional credentials. The aforesaid cases have no bearing on the instant case. Lastly it is contended by the 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.

Learned A.G.A could not satisfactorily dispute the aforesaid submissions from the record. However, he does not contest the criminal history of the applicant 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 the learned counsel for the applicant and 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-Abdul Kadeer Khan involved in Case Crime No.0378 of 2021 at Police Station-Kotwali District-Jhansi under Sections 420, 406 IPC, be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

1. The applicant will not tamper with the evidence during the trial.
2. The applicant will not influence any witness.

3. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

4. The applicant shall not directly or indirectly make any 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 conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 24.12.2021

Nadeem