

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 16575 of 2021

Applicant :- Sudhakar Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

Heard learned counsel for the applicant, learned AGA for the State through video conferencing.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant seeking enlargement on bail during the trial in Case Crime No. 109 of 2021, under Sections 420 IPC and Section 15(2), 15(3) of Indian Medical Council Act, P.S. Dadari, District Gautam Budh Nagar.

As per prosecution story, on 16.02.2021, Medical Superintendent, CHC, Dadari through Social Media came to know that in Gopal Pathology Lab situated near Central Bank of India, GT Road, Dadari, free vaccination of Corona virus of general public is going on and thereafter the matter was informed to superior officer and the same was inquired by Dr Sanjeev Kumar and Drug Inspector Baghpat, who inspected the said Lab and found that a free corona vaccination camp was being organized with the help of Nari Raksha Dal on the spot and a banner to this effect was also found on the spot. It is further stated that when the investigating authorities entered into the Lab one person was seen injecting the vaccine, who told his name Rijwan Ali and on quarry, it is informed that he and other accused persons named in the FIR are employee of the Flores Hospital, who have been authorized by the Hospital for vaccination but when the Inspecting team demanded the paper to this effect, no paper in this regard could be produced.

It is contended by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. It is further contended that the applicant is a student of fourth Semester of M.Sc. Clinical Research studying in Institute of Himgiri Zee University, Dehradun, Uttarakhand. It is further submitted that the course of M.Sc, Clinical Research is running by University, under the supervision of Institute of Clinical Research India (ICRI). It is further submitted that the applicant has been sent for internship at Flores Hospital, Ghaziabad with the consent of ICRI. It is further

submitted that no role of applicant has been assigned either in the FIR or in the statement of the informant recorded under Section 161 Cr.P.C.

It is further submitted that the applicant has neither violated the clinical trials rules nor committed any offence by getting the volunteers convinced of vaccination in clinical trial. It is further submitted that at the Gopal Pathology Lab signature of the volunteers on the consent letter for clinical trial vaccination has been obtained and nothing has been concealed in getting agreed the volunteers for vaccination and as such no offence under Section 420 IPC is made out. It is further submitted that from the allegations made in the FIR no offence under Section 15(2) and 15(3) of the Indian Medical Council Act is made out against the applicant. The applicant is in jail since 16.02.2021.

On the other hand, learned A.G.A. opposes the application for bail.

Upon hearing learned counsel for the parties, perusal of record and considering the complicity of accused, severity of punishment as well as totality of facts and circumstances, at this stage without commenting on the merits of the case, I find it a fit case for bail.

Let the applicant- Sudhakar Yadav, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) THE APPLICANT SHALL FILE AN UNDERTAKING TO THE EFFECT THAT HE SHALL NOT SEEK ANY ADJOURNMENT ON THE DATE 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 HIS COUNSEL. IN CASE OF HIS ABSENCE, WITHOUT SUFFICIENT CAUSE, THE TRIAL COURT MAY PROCEED AGAINST HIM UNDER SECTION 229-A IPC.

(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., MAY BE ISSUED AND IF 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 IPC.

(iv) THE APPLICANT 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 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.

(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.

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

It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

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

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 :- 22.6.2021
RavindraKSingh