

Court No. - 71

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22130 of 2021

Applicant :- Mohammad Rashid Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Kamal Krishna Roy, Charlie Prakash

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Kumar Singh, J.

Heard Sri S.F.A. Naqvi, learned senior Advocate assisted by Sri K.K. Roy, learned counsel for the applicant, learned AGA, appearing for the State and perused the material brought on record.

It has been contended by the learned counsel for the applicant that the applicant has been falsely implicated in the present case. It is next contended that the applicant has never conducted any training camp in any place including Maharashtra and he has never kept any document, literature or CD to propagate the concept of Islamic State and to instigate the persons to indulge in violence or any anti national activity. It is further contended that the controversial material alleged to be recovered from the custody of the applicant has been purposely arranged by the police itself to make out a case, the said fact has been mentioned in para 37 to the affidavit filed in support of bail application. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused has also been touched upon at length. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required. It has also been submitted that the applicant is languishing in jail since 14.03.2021. It has been pointed out that the applicant has no criminal history.

Learned A.G.A. has vehemently opposed the prayer.

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.

Having heard the submissions of learned counsel of both sides, nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, prima facie satisfaction of the Court in support of the charge, reformatory theory of punishment, and larger mandate of the Article 21 of the Constitution of India, the dictum of Apex Court in the case of **Dataram Singh v. State of U.P. and another, reported in (2018) 2 SCC 22** and without expressing any opinion on the merit of the case, I find it to be a case of bail.

Let applicant- **Mohammad Rashid Khan**, be released on bail in Case Crime No. 97 of 2021, under Sections- 121-A, 420, 467, 468, 471 and 120B IPC, Police Station- Kotwali, District- Basti, on furnishing a personal bond and two sureties each in the like amount to the satisfaction

of magistrate/court concerned, subject to following conditions:-

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the date fixed after release.
2. He will not tamper with the witnesses.
3. He will not indulge in any illegal activities during the bail period.

The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to prison.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

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

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 :- 14.9.2021

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