

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 18887 of 2022

Applicant :- Nawab

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Kumar Sharma, Abhas Sharma

Counsel for Opposite Party :- G.A., Ashok Kumar Singh

Hon'ble Ajay Bhanot, J.

1. By means of this bail application, the applicant has prayed to be enlarged on bail in Case Crime No. 94 of 2022 at Police Station Simbhawali District Hapur under Sections 147, 148, 504, 307, 354Kha, 324 I.P.C. The applicant is in jail since 11.03.2022.

2. The bail application of the applicant was rejected by learned Sessions Judge, Hapur on 11.04.2022.

3. Shri Rajesh Kumar Sharma, learned counsel assisted by Shri Abhas Sharma, learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The F.I.R. arises out of an altercation between political rivals which suddenly escalated into a violent brawl. The incident occurred in the aftermath of election results which saw sloganeering and frayed tempers. Mobs from two sides engaged in violence. The F.I.R. assigns a general and vague role in the assault to the applicant. The applicant has not been identified as the principal offender who inflicted life threatening injuries on the injured persons. The nature of injuries as recorded in the

medical reports establishes that there was no intent to kill or cause grievous hurt. The applicant did not behave inappropriately with any lady. Prosecution evidence does not connect the applicant with the offence. Learned counsel for the applicant claims congruency in role and seeks parity in relief granted to the co-accused namely Ansar who have been enlarged on bail by this Court by order dated 20.05.2022 in Criminal Misc. Bail Application No. 18632 of 2022. Learned counsel for the applicant contends that the applicant does not have any criminal history apart from this case.

4. Shri Indra Prakash Srivastava, learned AGA for the State and Shri Ashok Kumar Singh, learned counsel for the informant could not satisfactorily dispute the aforesaid submissions from the record. However, they point out that no one from the applicant's side sustained injuries. Learned AGA does not dispute the fact that the applicant does not have any criminal history prior to the instant case.

5. I see merit in the submissions of learned counsel for the applicant and accordingly hold that the applicant is entitled to be enlarged on bail.

6. Ordinarily the order should end here. However, I recall the words of Chief Justice Roberts of the U.S. Supreme Court "When judges render their judgements through written opinions that explain their reasoning they advance public understanding of the law. Chief Justice Warren illustrated the power of a judicial decision in Brown Vs.

Board of Education “.....every citizen could understand its rationale.”

7. Discourse in courts which reflects on social ills and legal challenges is also a reservoir of alternative thought, and may become a catalyst of positive change. Legal dialogues in courts can also help in arresting aberrational tendencies in the society.

8. Incidents of mob violence spread disaffection in the society and are incompatible with the rule of law and have no place in any civilized nation. Law will take its course and the offenders have to face justice. However, there is another aspect to this issue which cannot be neglected.

9. Sectarian violence fractures the peace, and fissures the society. Politics is indispensable for democracy. But politics cannot monopolize dialogue. Law and courts are not the only instruments to deal with problem. All sections of the society have to own up to their responsibilities to promote fraternity among all citizens and ensure peace.

10. Ganga Jamuni Tehzeeb is not a ritual to be observed in conversations, infact it is a soul force to be harnessed in conduct. Ganga Jamuni Tehzeeb culture is not mere tolerance of differences, but heartfelt embracement of diversity. The ethos of the State of Uttar Pradesh brings out the catholicity of Indian philosophy.

11. Seakers of different paths would do well to remember the Father of the Nation. The Mahatma by the example of his life and the fact of his death, reminds us that the quest of

all religions and the essence of an Indian's Dharma is love for fellow beings. Someone's hate consumed his body, but not his love for humanity. A bullet stilled his mortal frame but could not silence the truth in him.

12. Promptly rejoining, Shri Rajesh Kumar Sharma, learned counsel assisted by Shri Abhas Sharma, learned counsel for the applicant and Shri Ashok Kumar Singh, learned counsel for the informant contend that the applicant's side and the informant's side respectively are worthy inheritors of this priceless heritage and will never cede this legacy. As a matter of conviction and deeply held values, it is submitted by both the learned counsels that the respective parties seek to take measures to keep the peace and restore the traditional harmony and faith between all sections of the society.

13. Shri Rajesh Kumar Sharma, learned counsel assisted by Shri Abhas Sharma, learned counsel for the applicant and Shri Ashok Kumar Singh, learned counsel for the informant submit that respective parties would serve cool Sherbet (शर्बत) and water to passersby and thirsty travellers for one week at a public place in District Hapur at a date and time of their choosing in May-June 2022. Shri Rajesh Kumar Sharma, learned counsel volunteers to be present at the event, since he belongs to that area.

14. The calling of law is a summons to public service. It is reassuring that notables of the legal profession are conscious of their public duties to promote constitutional

values. Selfless service and refined dialogue will strengthen the resolve of the society to shun hate and violence.

15. The parties may make an application to the Superintendent of Police, Hapur and the District Magistrate, Hapur in this regard. The local police and administration shall ensure that appropriate arrangements are made so that the activity can continue in peace and without any impediment and creates the intended goodwill and amity.

16. Many generations of Indians gave their blood, sweat, tears and toil to wrest freedom from the shackles of slavery. The founding generations had steered the country through stormy seas; it is the duty of all Indians to helm the nation into calm ports. The poet Pradeep was at lyrical best when he beckoned Indians to fortify the hard won republic:

"हम लाए हैं तूफ़ान से कश्ती निकाल के,
इस देश को रखना मेरे बच्चों सम्भाल के।
तुम ही भविष्य हो मेरे भारत विशाल के,
इस देश को रखना मेरे बच्चों सम्भाल के।"

17. In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

18. Let the applicant- **Nawab** 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 below. The following conditions be imposed in the interest of justice:-

(i) The applicant shall participate in the cool water and

Sherbet distribution event as discussed earlier in the order.

(ii) The applicant will not tamper with the evidence during the trial.

(iii) The applicant will not influence any witness.

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

(v) The applicant shall not directly or indirectly make 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.

19. In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

20. A copy of this order shall be sent by the Registrar General of this Court to the Superintendent of Police, Hapur and the District Magistrate, Hapur, for compliance and the above directions.

Order Date :- 20.5.2022
Kumar Dhananjai