

Court No. - 9

Case :- CRIMINAL APPEAL No. - 2734 of 2022

Appellant :- Maulana Kaleem Siddiqui

Respondent :- State Of U.P. Thru. Prin. Secy. Home, Lucknow

Counsel for Appellant :- Zia Ul Qayyum, Brij Mohan Sahai, Syed Mehfuzur Rehman

Counsel for Respondent :- G.A.

Hon'ble Attau Rahman Masoodi, J.

Hon'ble Mrs. Saroj Yadav, J.

Heard Shri I.B.Singh, learned Senior Advocate assisted by Shri Zia Ul Qayyum Jilani, learned counsel for applicant/ appellant and Ms. Meera Tripathi, learned A.G.A.

This Criminal Appeal under Section 21 (4) of the N.I.A. Act, 2008 has been filed on behalf of the appellant against the impugned order dated 3.2.2022 passed by Incharge Special Judge, NIA/A.T.S., Additional Sessions Judge-III, Lucknow rejecting the bail application of the applicant/ appellant in Case Crime No.9/2021, under Sections 417, 120-B, 153-A, 153-B, 295-A, 298, 121-A, 123 I.P.C. and Section 3/5/8 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021.

Learned counsel for the appellant has argued that on conclusion of the investigation, a police report has already been filed before the competent court, the cognizance having been taken, the case is

proceeding for trial. Allegations against the applicant/ appellant relate to carrying out certain activities which according to the prosecution case are anti national. The allegation is to the effect that the appellant has indulged into mass conversion of the people within the State of U.P. from Hindu religion to Islam by making publicity of Islam through a Youtube channel. It is also alleged that a huge fund has been generated for executing such activities which is an offence within the scope of U.P. Prohibition of Unlawful Conversion of Religion Act, 2021.

Learned counsel for the applicant/ appellant has submitted that two co accused persons whose bail was rejected under similar circumstances by the trial court have been granted bail by the Hon'ble Supreme Court as well as by this Court. It is further submitted that as the case at hand is situated on similar footing hence, the applicant/ appellant may be released on bail on the ground of parity.

On the other hand, learned A.G.A. has opposed the bail but could not dispute the aforesaid facts.

The bail orders passed by Hon'ble Supreme Court

as well of this Court have been placed before this Court.

Co - accused Irfan Khan @ Irfan Shaikh has been granted bail by the Hon'ble Supreme Court vide order dated 22.2.2023 passed in Crl. Appeal No.567 of 203 while co accused - Dr. Faraz Shah has been granted bail by a Co-ordinate Bench of this Court vide order dated 2.3.2023 passed in Crl. Appeal No.615 of 2022.

It is to be noted that the trial is in progress and the appellant undertakes not to indulge into any activity subversive of law, if he is enlarged on bail. That apart, the appellant has also assured this Court to cooperate with the trial without seeking any undue adjournment.

Looking to the fact that a long list of witnesses is relied upon by the prosecution and the trial is to take time, further detention of the appellant pending appeal does not seem to be just to serve any cause for the prosecution.

We, accordingly, for the same very reason as has been assigned in two bail orders referred to above, are convinced that the impugned order assailed

herein, in this appeal, deserves to be set aside and the appellant is liable to be enlarged on bail.

Accordingly, the appeal is **allowed** and impugned order dated 3.2.2022 passed by Incharge Special Judge, NIA/A.T.S., Additional Sessions Judge-III, Lucknow rejecting the bail application of the applicant/ appellant in Case Crime No.9/2021, under Sections 417, 120-B, 153-A, 153-B, 295-A, 298, 121-A, 123 I.P.C. and Section 3/5/8 of the U.P. Prohibition of Unlawful Conversion of Religion Act, 2021 is set aside.

Let the appellant/accused- **Maulana Kaleem Siddiqui** involved in Case Crime No.9 of 2021 (supra) 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 with the following conditions:-

(i) The appellant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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 appellant 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 of the Indian Penal Code.

(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. is issued and the 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 of the Indian Penal Code.

(iv) The appellant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

We further provided that in the event of appellant found engaging himself into promoting any anti-social activities or misusing the liberty of bail or repeating any offence as alleged, it shall be open to the State to file an application for cancellation of bail. Besides the above, the appellant shall mark his presence in the nearby police station in the first week of every month from the date of his release and shall keep the local police apprised about his whereabouts. We also provide that the appellant shall not visit the State of U.P. till the pendency of the proceedings except for attending the trial.

(Mrs. Saroj Yadav,J) (A.R.Masoodi,J)

Order Date :- 5.4.2023
Shukla