

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47754 of 2020

Applicant :- Faisal Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ali Qambar Zaidi

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

Heard learned counsel for the applicant and learned AGA for the State.

The instant bail application has been filed on behalf of the applicant, **Faisal Khan**, with a prayer to release him on bail in Case Crime No. 390 of 2020, under Sections 153-A, 295, 505, 419, 420, 467, 468, 471 IPC, Police Station Barsana, District- Mathura during pendency of trial.

There is allegation against the applicant that he along with co-accused, Chand Mohammad have performed *Namaz* inside the temple without consent of priest and its photographs were made it viral. The news was shown on the television. Thereafter first information report has been lodged on the allegation that this act of the applicant and co-accused shows disrespect for the religious feeling of other community and there is possibility of deterioration in the communal harmony. It is also suspected that the applicants are receiving foreign funds.

Learned counsel for the applicant has submitted that applicant is a renowned social activist who has revived Khudai Khidmatgar movement of India and is working for maintaining communal harmony for the last 25 years. In this connection he undertook *yatra* for visiting temples. He was offered prasad and lunch by Chief Priest of the temple and he also bestowed blessings on him as clear from photographs in dispute. He has further submitted that applicant has been falsely implicated in this case. Only on the basis of photographs which went viral the applicant cannot be said to have intention to disturb the communal harmony of the society. He did not entered into the sanctum sanctorum of the temple rather he performed *Namaz* outside of the temple with the permission of the priest of the temple as clear from the viral photographs. The allegation of receiving foreign funds is without basis.

Learned AGA has opposed the prayer for bail of the applicant.

Having considered the material on record, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another, reported in (2018) 3 SCC 22 and without expressing any opinion on the merits of the case, let the applicant involved in the aforesaid 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 with the following conditions that :-

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.
2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.
3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
4. In case the applicant has been enlarged on short term bail as per the order of committee constituted under the orders of Hon'ble Supreme Court his bail shall be effective after the period of short term bail comes to an end.
5. The applicant shall be enlarged on bail on execution of personal bond without sureties till normal functioning of the courts is restored. The accused will furnish sureties to the satisfaction of the court below within a month after normal functioning of the courts are restored. In case court below is functioning normally, this condition will not apply and applicant shall be enlarged on bail on execution of bail bond and two sureties to the satisfaction of the court below.
6. The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.
7. 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.
8. **Applicant will not use social media for any such purposes till the conclusion of trial.**

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

Order Date :- 18.12.2020

SS