

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 12083 of 2019

**Applicant :-** Bantu Singh Alias Banti

**Opposite Party :-** State Of U.P.

**Counsel for Applicant :-** Aklank Kumar Jain

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Kumar Singh,J.**

Heard Sri A.K.Jain, learned counsel for the applicant and Sri Abhinav Prasad, learned A.G.A. for the State and also perused the record.

It is submitted by learned counsel for the applicant that the applicant has been falsely implicated in the present case due to ulterior motive by the police in order to show their good work and he has committed no offence. It has been next contended that the FIR has been lodged against unknown persons and the applicant is not named therein. It is further contended that neither any theft of wire has been committed by the applicant nor he damaged some other electric goods. False recovery of wire has been shown against the applicant. In fact, nothing has been recovered from the possession of the applicant and there is no public or eye witness to support the prosecution version. 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 25.9.2018. The applicant has also been falsely implicated in four other cases by the police, but he is not named in the FIR as mentioned in paragraphs 9 & 10 of the affidavit filed in support of the bail application. Co-accused Layak Singh Kushwah has already been released on 14.3.2019 by this Court in Criminal Misc. Bail Application No. 3544 of 2019 and the case of the applicant is on similar footing to that of the co-accused, hence he applicant is also entitled to be released on bail.

Learned A.G.A. opposed the prayer for bail.

Considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tempering of the witnesses and prima facie satisfaction of the Court in support of the charge and reformatory theory of punishment, and also considering the submissions advanced by learned counsel for the parties, larger mandate of the Article 21 of the Constitution of India and the dictum of Apex Court in the case of Dataram Singh v. State of U.P. and another, reported in (2018) 3 SCC 22, the applicant is entitled to be released on bail.

Keeping in view the nature of submissions advanced, let the applicant- **Bantu Singh Alias Banti** involved in Case Crime No. 145 of 2018, under Section 136 Electricity Act, Police Station- Eka, District Firozabad be enlarged on bail on his executing a personal bond and furnishing two sureties each in the like amount to the satisfaction of court concerned

subject to the following conditions:-

(i) The applicant 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 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 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 applicant 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.

In case of breach of any of the above conditions, the trial court will be at liberty to cancel the bail

**Order Date :- 26.3.2019**

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