

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12618 of 2019

Applicant :- Layak Singh Kushwah

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 Aklank Kumar Jain, learned counsel for the applicant, Sri A.N. Singh, holding brief of Sri Baleshwar Chaturvedi, learned counsel for the Corporation, Sanjay Singh, learned AGA appearing for the State and perused the material brought on record.

The submission of learned counsel for the applicant is that applicant is innocent and has been falsely implicated in the present case due to ulterior motive. It is further submitted that FIR has been lodged against unknown persons applicant is not named in the First Information Report nor any test identification parade has been conducted till today. It is also submitted that applicant has not committed the present offence while he has been implicated in the other offences which has been previously registered in the different police station relates to section 136 of Electricity Act. There is no public witness to support the prosecution version. The criminal history of the applicant has been explained in paragraph 9 and 10 of the affidavit in support of bail application and bail orders 11.3.2019 and 15.3.2019 passed by this Court in Crl. Misc. Bail Application No.5372 and 3751 of 2019, copy of the said orders have been produced before the Court by learned counsel for the applicant which is taken on record. 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 is further submitted that there is also no possibility of applicant either fleeing away from the judicial process or tampering with the witnesses. Applicant is in jail since 25.9.2018, and undertakes that he will not misuse the liberty, if granted.

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

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- Layak Singh Kushwah, be released on bail in Case Crime No. 367 of 2018, under Sections 136 of Electricity Act, Police Station- Jaserana, district- Firozabad, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:--

(i) The applicant will co-operate with the trial and remain present personally on each and every date fixed after release.

(ii) The applicant will not tamper with the prosecution evidence and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant will not indulge in any unlawful activities.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever.

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

Order Date :- 28.3.2019

ssm