
(2013) 01 AHC CK 0267

In the Allahabad High Court

Case No : Application U/S. 482 No. 2286 of 2013

Ganesh Gupta

APPELLANT

Vs

State Of U.P. and Another

RESPONDENT

Date of Decision : 24-01-2013

Acts Referred:

Essential Commodities Act, 1955 — Section 3, 7
Penal Code, 1860 (IPC) — Section 1, 41, 411, 414

Citation : (2013) 01 AHC CK 0267

Hon'ble Judges : Sunil Hali, J

Bench : Single Bench

Advocate : Anil Kant Tripathi, for the Appellant;

Final Decision : Allowed

Judgement

Sunil Hali, J.—By means of this application, applicant has prayed for a direction to the Addl. Chief Judicial Magistrate IInd, Ballia to take an additional fresh bail bond from the applicant in Case Crime No. 725 of 2012, under Sections 41/411, 1/414 IPC, P.S. Kotwali Bansdeeh, District Ballia in the light of the order passed by this Court in Criminal Misc Bail Application No. 31255 of 2012 and thereafter change the Judicial Custody of the applicant to the custody of sureties i.e. on bail. Applicant is facing trial in Case Crime No. 725 of 2012, u/s 3/7 of Essential Commodities Act. It appears that applicant had obtained bail from this Court on 5.1.2012. It appears that the bail was obtained at the time investigation was under progress. After investigation, charge sheet has been filed u/s 41/411, 414 IPC.

2. It is contended by learned counsel for the applicant that the bail application of the applicant was rejected by the court below against which revision was preferred before the Sessions Court which has also been rejected vide order dated 5.1.2013.

3. Heard learned counsel for the applicant, learned A.G.A. and perused the

material on record.

4. Applicant had obtained bail u/s 3/7 of E.C. Act during course of investigation from this Court. After investigation offence was changed to Section 41/411, 414 IPC and thereafter he moved a fresh bail application before the Trial Court which has been rejected. Revision against this also has been rejected.

5. While scanning through the impugned order both the courts have not indicated the reasons as to why the bail application has been rejected. Principal regarding grant or refusal of bail are well settled. The principle governing the grant of bail are relatable to following things:-

(i) seriousness of the allegations, severity of punishment, the character of the evidence on which the charge is supposed to be sustained, tampering and intimidating the witnesses and chances of running away from the trial.

(ii) false implication of the accused, allegations levelled not believable and the wrecking vengeance for political or business reasons.

6. Thus, the jurisdiction to grant bail has to be exercised on the basis of well settled principles having regard to the circumstances of each case and not in an arbitrary manner. While granting the bail, the court has to keep in mind the nature of accusations, the nature of evidence in support thereof, the severity of the punishment which conviction will entail, the character, behaviour, means and standing of the accused, circumstances which are peculiar to the accused, reasonable possibility of securing the presence of the accused at the trial, reasonable apprehension of the witnesses being tampered with, the larger interests of the public or State and similar other considerations.

7. Admittedly, in the present case, the applicant is not involved in an offence which carries a punishment of life imprisonment. It is only on the ground stated herein supra the bail can be allowed or refused. Both the courts have shown lack of application of mind while rejecting the bail application of the applicant. It is nowhere mentioned that after submission of charge sheet any further investigation was ordered in the matter or that the accused was absconding during course of trial. Once the charge sheet is filed in an offence which does not carry the sentence of life imprisonment referring the accused to the custody is not justified.

8. After going through the record, I do not find any reason to withhold the bail to the applicant in a case where he is involved in an offence which carries the punishment up to three years. In view of above, I allow this application. The orders of the court below are hereby set aside. Let the applicant be released on bail on his furnishing a fresh bail bond and two sureties each in the like amount to the satisfaction of the Court concerned.