

**Court No. - 66**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 20848 of 2020

**Applicant :-** Osama

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

**Counsel for Applicant :-** Manoj Kumar Dubey, Vipul Kumar Dubey

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

**Hon'ble J.J. Munir,J.**

This application has been entertained without an affidavit on account of the extraordinary contingency created by the Covid-19 pandemic where travel is restricted. This Court notices the fact that there is a declaration by the applicant that he will file an affidavit. This order is being passed, therefore, subject to a certain condition in this regard.

This is an application for bail on behalf of the applicant **Osama** in connection with Case Crime No. 14 of 2020, under Sections 147, 148, 149, 124A, 153A, 504,505, 506, 188, 332, 333, 336, 186, 353, 307, 120-B I.P.C. and 2/3 Prevention of Damage to Public Property Act and 7 Law Amendment Act, Police Station Bilariyaganj, District Azamgarh.

Heard Sri Vipul Kumar Dubey, learned counsel for the applicant and Sri Arvind Kumar, learned A.G.A. appearing for the State.

The submission of the learned counsel for the applicant is that the allegations are general in nature where no specific role has been assigned to anyone. It is also argued that the injured, who are police men, were examined and according to the injury reports all injuries are simple in nature. It is argued that all witnesses are police personnel who have given self serving statements. It is further pointed out that 19 co-accused, similarly circumstanced, have been enlarged on bail by various orders of this Court.

Learned A.G.A. has vehemently opposed the bail plea and submits that it is not a simple case of mob violence but one that involves promotion of enmity between different groups on ground of religion, race etc. He also submits that the applicant along with the other co-accused made seditious speeches to excite

disaffection towards the Government which attracts the provisions of Section 124-A I.P.C.

This Court has perused the FIR. The allegations there say that all the nominated accused congregated in numbers running into thousands including men, women and children brandishing sticks (*Lathi, Danda*) Rod, brickbats besides other dangerous weapons. They indulged in inflammatory speeches against the Government and the nation, saying that they would snatch freedom at all costs. It is also mentioned in the FIR that hateful words were spoken against members of a particular religion. They also abused the Prime Minister and the Chief Minister and members of a particular religion in vulgar language. They threatened to cause injury to life and property and shouted slogans against the CAA, NREC and NPRA. It is alleged in the FIR that when the SHO/informant repeatedly restrained the unlawful assembly, of which the applicant was a member, not to congregate and violate the law as there was an order under Section 144 promulgated, the congregation, which included the applicant, did not heed. Persons in the locality, who are small shopkeepers, vendors etc. pulled down their shutters and fled. There was utter chaos with escalation of the chances of eruption of communal riots. These actions appear to have continued for some time and on 05.02.2020 at 3.00 p.m., the congregated members, with a common object, assaulted the police with sticks, brickbats and other weapons. They damaged police vehicles, the registration number one of which is mentioned in the FIR as U.P. 50 AG 0382.

Considering the facts and circumstances of the case, the gravity of the offence, the nature of the allegations, the severity of punishment, and, in particular, the fact that it is a case where inflammatory speeches were made by the congregation, of which the applicant was a member, seditious statements made, besides statements directed to promote enmity between different religions followed by assault on police personnel and damage to public property, including police vehicles, this Court is most respectfully not inclined to accept the plea of parity put forward by the applicant on the basis of various bail orders relating to the other co-accused, passed by a coordinate bench of this Court; but,

without expressing any opinion on merits of the case that is to be judged at the trial, this Court does not find it to be a fit case for bail at this stage.

The bail application, accordingly, stands **rejected** at this stage.

However, looking to the period of detention of the applicant, it is directed that trial pending before the concerned court be concluded expeditiously and preferably within six months from the date of receipt of a certified copy of this order, in accordance with Section 309 Cr.P.C., and in view of principle laid down in the judgment of the Hon'ble Supreme Court in the case of **Vinod Kumar v. State of Punjab** reported in **2015 (3) SCC 220**, if there is no legal impediment.

It is made clear that in case the witnesses do not appear, the concerned court shall initiate necessary coercive measures to ensure their presence.

Let a copy of the order be certified to the court concerned for strict compliance.

**Order Date :- 25.8.2020**

BKM/-