

HIGH COURT OF JUDICATURE AT ALLAHABAD

Ramesh Sinha,J

Maha Ahmad Yusuf v. State Of U.P.

Application U/S 482 No. 5398 of 2015

24.02.2015

CrPC, Section 445 - Applicant is a foreign national is not having any relative or friend who can stand surety for him and may not be in a position to take help of any person in India. The legal preposition of law as has been settled by the Apex Court in the cases of *Moti Ram v. State of M.P.*, AIR 1978 SC, 1594 and *State of M.P. V. Jagjit Singh* AIR 1962 SC 253, wherein the relevant consideration for granting bail has been clearly analysed. The cash deposit is equally efficacious as other system in view of Section 445 Cr.P.C.

Counsel for Applicant :- Abhishek Tiwari, Bhuvnesh Kumar Singh

Counsel for Opposite Party :- Govt. Advocate

Ramesh Sinha,J. - Sri Girish Kumar Sharma, Advocate has filed his power on behalf of applicant, he states that he has taken no objection from Sri Bhuvnesh Kumar Singh, who is also present along with him, which is taken on record.

2.- Heard Sri Girish Kumar Sharma and Sri Bhuvnesh Kumar Singh, learned counsel for the applicant, Sri Nitin Srivastava, learned A.G.A. for the State.

3.- This application under Section 482 Cr.P.C. has been filed for quashing the impugned order dated 18.12.2014 passed by Incharge Chief Judicial Magistrate, Maharajganj in Case Crime No.895/2014, u/s 419, 420, 467, 468, 471 IPC and 14-B Foreigner Act, P.S. Sonauli district Maharajganj and direct the C.J.M., Maharajganj to reduce the amount of personal bond and amount of sureties and also direct the C.J.M. Maharajganj to accept the aforesaid reduced amount in cash at the time of accepting the bail bond of the applicant in case crime no.895/2014, u/s 419, 420, 467, 468, 471 IPC and 14-B, Foreigner Act, P.S. Sonauli district Maharajganj.

4.- The contention of learned counsel for the applicant is that the applicant earlier approached this Court and filed Criminal Misc. Bail Application No.41932 of 2014 and on 10.12.2014 he was granted bail by another Bench of this Court in the aforesaid case. In pursuance of the same the learned Magistrate vide order dated 18.12.2014 has directed that the applicant be released on bail on furnishing personal bond of Rs.1,00,000/- and two sureties of the like amount. He argued that the applicant is refugee and come to India for studies in Usmania University, Hyderabad from Somalia country. The amount of personal

bond and sureties is too high and the applicant is not able to arrange the same as he is refugee. He is ready to deposit the amount in cash in view of Section 445 Cr.P.C. which may also be reduced. He further undertakes that he would not leave this country without permission of trial court concerned and also of the United Nations High Commissioner for Refugees in India, New Delhi with whom it is stated that the Pass-Port of the applicant is deposited and who has also issued a identity card to the applicant for living in India, a copy of which is annexed as Annexure No.3 on page 19 of the affidavit. Learned counsel for the applicant in support of his argument placed reliance of judgment of Apex Court in the case of AIR 1978 SC, 1594 Moti Ram V. State of M.P. and State of M.P. V. Jagjit Singh AIR 1962 SC 253. He further has drawn attention of the Court towards some reported and unreported cases of Delhi High Court such as 2012 (2) JCC898 Zoro Daniel V. State as well as Criminal Misc. Case No.2911 of 2010 Anthony V. The State decided on 06.10.2010 and Criminal Misc. Case No.3396 of 2008 Alaxender decided on 23.10.2008 and further another judgment of Gauhati High Court, reported in 1981 CRLJ 229 Gokul Das V. The State of Assam which was passed in view of Section 445 Cr.P.C. photo copies of the orders passed by Delhi High Court dated 6.10.2010 and 23.10.2008 are taken on record.

5.- Learned AGA though opposed the prayer of learned counsel for the applicant but could not dispute the fact that the applicant is a foreign native and a refugee in India.

6.- Considered the submissions advanced by learned counsel for the parties and perused the material on record. It is an admitted fact that the applicant is a foreign national is not having any relative or friend who can stand surety for him and may not be in a position to take help of any person in India. The legal preposition of law as has been settled by the Apex Court in the cases of Moti Ram v. State of M.P. (Supra) and State v. Jagjit Singh (Supra) wherein the relevant consideration for granting bail has been clearly analysed. The cash deposit is equally efficacious as other system in view of Section 445 Cr.P.C.

7.- Considering the facts and circumstances of the case, the order dated 18.12.2014 passed by In-charge C.J.M., Maharajganj is modified to the extent that the applicant is permitted to deposit the cash amount of Rs.50,000/- in lieu of surety with the C.J.M. concerned subject to deposit of said surety amount and on furnishing a personal bond of the same amount be released on bail by C.J.M. concerned subject to the following conditions:-

1. The applicant shall not leave the country without prior permission of the concerned trial court.
2. The applicant shall cooperate with the trial.
3. The applicant's pass-port which has been stated to be kept with the United Nations High Commissioner for the Refugees, New Delhi shall not be released to the applicant by the said authorities without the permission of the trial court.

8.- It is made clear that the C.J.M. concerned shall not release the applicant in pursuance of this order unless a certified copy of this order is furnished by the applicant before the Embassy concerned and United Nations High Commissioner for the Refugees, New Delhi and duly authorised receipt under the seal of signature of the competent authority of the

said two authorities is produced before the C.J.M. concerned.

9.- The trial court is further directed to expedite the trial of the aforesaid case and conclude the same preferably within the period of six months from the date of production of the certified copy of this order before the trial court without granting unnecessary adjournment to either of the parties if there is no legal impediment.