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Delivered on :09.07.2024

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11804 of 2024

Applicant :- Shriniwas Rav Nayak

Opposite Party :- State of U.P.

Counsel for Applicant :- Patsy David, Sanju Lata, Saurabh Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Rohit Ranjan Agarwal, J.

1. Heard Ms. Sanju Lata, learned counsel for the applicant and Sri Sunil Kumar, learned A.G.A. for the State.

2. By means of this application under Section 439 of Cr.P.C., applicant who is involved in Case Crime No. 78 of 2024, under Sections 3/5 (1) of Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021 (*hereinafter referred as 'the Act of 2021'*), Police Station- Nichloul, District- Maharajganj seeks enlargement on bail, during the pendency of trial.

3. The prosecution story as unfolded in the First Information Report is that on 15.02.2024, the informant was invited to the house of co-accused, Vishwanath. When he reached there he saw that many people of village were there, most of them belonging to Scheduled Castes community. Along with the co-accused, Vishwanath, his brother, Brijlal, the applicant and one Ravindra were present. He was asked to leave Hindu religion and accept Christianity. He was told that once he accepts Christianity, all his pain would come to an end and he would progress in life. Some of the villagers on the assurance had accepted Christianity and started praying. The informant after making an excuse ran away and informed the Police.

4. Learned counsel for the applicant submitted that the applicant has no connection with the alleged conversion and is a domestic help of one of the co-accused and is resident of Andhra Pradesh and has been falsely

[2]

roped in in the instant case. Learned counsel for the applicant submitted that the FIR does not disclose any religion convertor as defined under Section 2(I)(i) of the Act of 2021. Further, statement of witnesses as alleged by the Police cannot be accepted as no undue influence was put for converting. Moreover, no person who has accepted Christianity has come forward to make any complaint.

5. Learned A.G.A. while opposing the bail application has submitted that mass conversion was going on, and the informant who was asked to accept Christianity had refused and had informed the Police in writing upon which the applicant was arrested. According to him, case under Section 3/5 of the Act of 2021 is made out against the applicant who is a resident of Andhra Pradesh and had come to the place in question at Maharajganj where the conversion was taking place and was actively participating in the conversion from one religion to another which is against the law.

6. I have heard respective counsel for the parties and perused the material on record.

7. The U.P. Act No. 3 of 2021 came into force on 4th March, 2021 after receiving assent of the Governor. It was published in the Government Gazette on 5th March, 2021. The statement of object and reason for enforcing the Act was to provide for prohibition of unlawful conversion from one religion to another by misrepresentation, force, undue influence, coercion, allurements or by any fraudulent means or by marriage and for the matters connected therewith or incidental thereto.

8. The Constitution of India guarantees religious freedom to all persons which reflects the social harmony and spirit of India. The objective of this right is to sustain the spirit of secularism in India. According to the Constitution, State has no religion and all religions are equal before the State, and no religion shall be given preference over the

[3]

other. All the persons are free to preach, practice and propagate any religion of their choice.

9. The Constitution confers on each individual the fundamental right to profess, practice and propagate his religion. However, the individual right to freedom of conscience and religion cannot be extended to construe a collective right to proselytize; the right to religious freedom belongs equally to the person converting and the individual sought to be converted.

10. Section 2(a) of the Act of 2021 defines "Allurement", Section 2(b) defines "Coercion", Section 2(c) defines "Conversion", Section 2(e) defines "Fraudulent means", Section 2(f) defines "Mass Conversion", Section 2(h) defines "Religion", Section 2(i) defines "Religion Convertor" and Section 2(j) defines "Undue influence". The definition of above are extracted hereasunder:-

"Section 2(a) "Allurement" means and includes offer of any temptation in the form of:

(i) any gift, gratification, easy money or material benefit either in cash or kind;

(ii) employment, free education in reputed school run by any religious body; or

(iii) better lifestyle, divine displeasure or otherwise;.

(b) "Coercion" means compelling an individual to act against his/her will by the use of psychological pressure or physical force causing bodily injury or threat thereof;

(c) "Conversion" means renouncing one's own religion and adopting another religion;

(e) "Fraudulent means" includes impersonation of any kind, by false name, surname, religious symbol or otherwise;

(f) "Mass Conversion" means where two or more persons are converted;

(h) "Religion" means any organized system of worship pattern, faith, belief, worship or lifestyle, as prevailing in India or any part of it, and defined under any law or custom for the time being in force;

(i) "Religion Convertor" means person of any religion who performs any act of conversion from one religion to another religion and by

[4]

whatever name he is called such as Father, Karmkandi, Maulvi or Mulla etc.;

(j) "Undue influence" means the unconscientious use by one person of his/her power or influence over another in order to persuade the other to act in accordance with the will of the person exercising such influence."

11. Section 3 prohibits conversion from one religion to another religion by misrepresentation, force, fraud, undue influence, coercion and allurement. It further states that no person shall abet, convince or conspire such conversion.

12. Section 4 provides for lodging of First Information Report by any person aggrieved, his/her parents, brother, sister, or any other person who is related to him/her by blood, marriage or adoption which contravenes the provisions of section 3. Section 5 provides for punishment for contravention of provisions of section 3.

13. From the reading of the above, it is clear that the Act in Section 3 clearly prohibits conversion from one religion to another religion on the basis of misrepresentation, force, fraud, undue influence, coercion and allurement. The Act further provides for punishment for contravention of provisions of the section which also restricts a person not to abet, convince or conspire such conversion.

14. Article 25 of Constitution of India provides freedom of conscience and free profession, practice and propagation of religion. For better appreciation, it is extracted as under:-

"25. Freedom of conscience and free profession, practice and propagation of religion. – (1) Subject to public order, morality and health and to the other provisions of this Part, all persons are equally entitled to freedom of conscience and the right freely to profess, practise and propagate religion.

(2) Nothing in this article shall affect the operation of any existing law or prevent the State from making any law—

(a) regulating or restricting any economic, financial, political or other secular activity which may be associated with religious practice;

[5]

(b) providing for social welfare and reform or the throwing open of Hindu religious institutions of a public character to all classes and sections of Hindus.

Explanation I.—The wearing and carrying of kirpans shall be deemed to be included in the profession of the Sikh religion.

Explanation II.—In sub-clause (b) of clause (2), the reference to Hindus shall be construed as including a reference to persons professing the Sikh, Jaina or Buddhist religion, and the reference to Hindu religious institutions shall be construed accordingly.”

15. The Constitution clearly envisages and permits its citizens right to freedom of religion in respect to their professing, practising and propagating its religion. It does not allow or permit any citizen to convert any citizen from one religion to another religion.

16. The Act of 2021 was enacted keeping in view the above constitutional provision for prohibiting of unlawful conversion from one religion to another.

17. In the instant case, the informant was invited by the co-accused, Vishwanath to his house on 15.02.2024 for attending a programme where it was found by the informant that number of villagers had gathered, mostly belonging to Scheduled Castes community who were being allured and misrepresented to convert to Christianity leaving their religion on the premise that their pain and sorrow will come to an end, and they will progress in life. Some of the villagers on the assurance had accepted Christianity, while the informant ran away from the programme and informed the Police in writing.

18. Moreover, during the investigation, the Police had recorded statement of independent witnesses which has been brought on record by State through counter affidavit which clearly reveals that such function was held in which the conversion was taking place.

19. The argument raised from the applicant side that there was no Religion Convertor present when the conversion was taking place is of no help as Section 2(i) only defines “Religion Convertor”. The Act does not

[6]

provide that a Religion Convertor should be present when the conversion is taking place.

20. In the instant case, the informant was persuaded to convert to another religion, which is *prima facie* sufficient to decline bail to the applicant as it establishes that a conversion programme was going on where many villagers belonging to Scheduled Castes community were being converted from Hindu religion to Christianity. There arises no occasion as to why the informant would rope in the applicant, who is a resident of Andhra Pradesh, falsely in a case of unlawful religion conversion. Neither in the bail application nor during argument, it has been submitted that there stood any enmity between the informant and the applicant.

21. This Court finds that *prima facie* a case for unlawful religion conversion is made out under the Act of 2021 and the applicant cannot be enlarged on bail, as the Act prohibits religion conversion under Section 3, which is punishable under Section 5 of the Act of the 2021.

22. In view of above, the bail application stands rejected.

Order Date :- 9.7.2024
V.S.Singh