

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1621 of 2023

Applicant :- Devkaran

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar, Ravi Pandey, Vikas Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. It is submitted by learned counsel for the applicant that earlier applicant was enlarged on bail in the year 1995 and thereafter he could not participate in the trial court proceedings since 1998 and thereafter coercive measures were issued and applicant was apprehended on 15.11.2022.
3. Learned counsel for the applicant submits that the applicant for his livelihood was residing at Delhi and, as such, he could not participate in the trial court proceedings.
4. The applicant undertakes to remain present on the date fixed before the trial court without seeking any unnecessary adjournment.
5. The charge in the present case has been framed 23rd August, 2023.
6. Learned counsel for the applicant further submits that the applicant is ready to give two sureties of one lac each. The applicant has no criminal history during the absconding period.
7. Learned A.G.A. has opposed the bail application, however, submits that in view of the undertaking given by the applicant that he will participate in the trial court proceedings, he would have no objection in case the applicant is released on bail.
8. The principle that Bail is a rule and Jail is an exception has been well recognised by Apex Court more specifically on the touch

stone of Article 21 of the Constitution. The said principle has been reiterated by the Apex Court in Satyendra Kumar Antil Vs Central Bureau of Investigation and another, 2022 (10) SCC 51. Learned AGA has not shown any exceptional circumstances which would warrant denial of bail to the Applicant.

9. No material, facts or circumstances has been shown by learned AGA that the accused may tamper with the evidence or witnesses or the accused is of such character that his mere presence at large would intimidate the witnesses or that accused will use his liberty to subvert justice or tamper with the evidence.

10. It is settled principle of law that the object of bail is to secure the attendance of the accused at the trial. No material particulars or circumstances suggestive of the applicant fleeing from justice or thwarting the course of justice or creating other troubles in the shape of repeating offences or intimidating witnesses and the like have been shown by learned AGA for the State.

11. Learned AGA for the State has not shown any material or circumstances that the accused/applicant is not entitled to bail in larger interests of the public or State.

12. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

13. Let the applicant **Devkaran** involved in G.S.T. No. 178 of 2010 arising out of Case Crime No. 157 of 1994, under Sections 2/3 of U.P. Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Gangiri, District Aligarh be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/intimidate the prosecution witness.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicant shall make himself available for interrogation by a police officer as and when required.

iv. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

v. The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

vi. The applicant shall not leave India without the previous permission of the Court.

vii. In the event, the applicant changes his residential address, the applicant shall inform the court concerned about new residential address in writing.

viii. In case the applicant does not appear before the trial court on the date fixed, the trial court shall proceed to issue warrant for arrest.

ix. The applicant shall have liberty to participate in the trial court proceedings through video conference as per the video conference rules.

14. In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 27.10.2023

Kumar Manish.