

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20725 of 2023

Applicant :- Sultan

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Nath Bhatt,Haya Rizvi,Rajvendra Singh,Zainul Abdin

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Rajvendra Singh, Ms. Haya Rizvi and Sri Zainul Abdin, learned counsels for the applicant and Sri Brijesh Pratap Singh, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 70 of 2023, under Section 420 IPC and Section 3/5/8 Cow Slaughter Act, Police Station Gajraula, District Amroha during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court vide order dated 07.04.2023 passed in Criminal Misc. Bail Application No. 13130 of 2023. He further submits that applicant is facing trial under the provisions of cow slaughter Act and he is not having any previous criminal history and in the present matter he is in jail since 14.02.2023 i.e. for more than eight months.

4. He further submits that along with applicant three other accused persons were also arrested and all the three accused persons, who were arrested along with applicant, have already been released on bail and their bail orders have been annexed as Annexure-5 to the affidavit. He further submits that till date even charges against the applicant could not be framed, therefore, considering the facts and circumstances of the case, applicant may be enlarged on bail.

5. Per contra, learned AGA opposed the prayer for bail and submits that this is second bail application filed on behalf of the applicant and first bail application of the applicant was dismissed by this Court after considering the entire facts of the case. He further submits that as applicant was the owner of the vehicle from which Beef was recovered, therefore, his case is

distinguishable from the case of other accused persons but he could not dispute the fact that applicant is in jail since 14.02.2023 i.e. for more than eight months.

6. I have heard learned counsel for the parties and perused the record of the case.

7. However, this is second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court on merit but it appears that applicant is facing trial under the provisions of cow slaughter act and he is not having any criminal history and in the present matter applicant is in jail since 14.02.2023 i.e. for more than eight months.

8. From the record, it further reflects that along with applicant three other accused persons were also arrested from the same car, in which, applicant was sitting and Beef was recovered but after rejection of first bail application of the applicant, it appears that all the three accused persons have been enlarged on bail by the co-ordinate Bench of this Court.

9. Therefore, considering the facts and circumstances of the case, particularly the incarceration of the applicant of more than eight months, in my view, applicant is entitled to be released on bail.

10. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

11. Let the applicant - **Sultan** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

12. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

13. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 6.11.2023

AK Pandey