

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29219 of 2023

Applicant :- Premveer Singh And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilesh Singh,Deeksha Singh,Shivam Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Akhilesh Singh, learned counsel for the applicants, Sri Ajay Singh, learned A.G.A-I for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicants-Premveer Singh and Shyamveer Singh, seeking enlargement on bail during trial in connection with Case Crime No.154 of 2004 (S.T. No.548 of 2016), under Sections 302 IPC, registered at Police Station Jasrana, District Firozabad.

4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that although the applicants and four other persons were named in the FIR which was lodged by Gajveer Singh on 29.8.2004 but after investigation, the name of the applicants was expunged from the present matter and charge sheet was only submitted against Ram Ratan, Shiv Ratan, Deepu and Bhura. It is argued that subsequently the statement of Gajveer Singh, the first informant was recorded before the trial court as P.W.1 in which he names the applicants also. Subsequently vide order dated 25.7.2007 passed by the concerned trial court, the applicants were summoned to face trial. It is submitted that against the said order, the applicants filed a Criminal Misc. Application U/S 482 No.25136 of 2007 (Premvir and another Vs. State of U.P. and another) in which initially vide order dated 9.10.2007, the operation of the order dated 25.7.2007 was directed to remain stayed in so far as the applicants therein were concerned. However, it was made clear the the proceedings in respect of other accused persons were not stayed as it shall take to its logical consequence, the said petition was subsequently disposed of vide order dated 11.11.2021 passed by coordinate Bench of this Court granting time to the applicants to surrender

before the trial court and apply for bail. In so far as the prayer for setting-aside the order impugned was concerned, the same was refused. The applicants then surrendered before the trial court concerned on coming to know that warrants have been issued against them and since then they are in jail. It is argued that looking to the facts and circumstances of the case, the fact that in the investigation, the implication of the applicants was found to be false and main role of firing was assigned to co-accused Ram Ratan and Shiv Ratan whereas the role of exhortation was assigned to the applicant no.2 Shyamveer and no role of causing any injury was assigned to the applicant no.1 Premvir. In so far as criminal history of the applicants are concerned, the applicant no.1 has no criminal history and whereas applicant no.2 was involved in one case which is of the year 2017 in which final report was submitted in his favour which was accepted by the trial court, para 8 of the supplementary affidavit dated 1.8.2023 is being placed for the same. The applicant is in jail since 31.5.2023.

5. Per contra learned counsel for the State opposed the prayer for bail.

6. After hearing the counsel for the parties and perusing the record, it is evident that the applicants were although named in the FIR but were exonerated in the investigation. Subsequently they were summoned under Section 319 Cr.P.C. to face trial. The said order was challenged by the applicants in which initially they were granted interim order in their favour but subsequently the said petition was disposed of. The role of firing is assigned to co-accused persons.

7. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicants may be enlarged on bail.

8. Let the applicants-**Premveer Singh and Shyamveer Singh**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicants will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicants will abide the orders of court, will attend the

court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicants will not misuse the liberty of bail in any manner whatsoever. In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under section 82 Cr.P.C., may be issued and if applicants fail to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicants shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicants is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicants.

9. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicants to prison.

10. The bail application is **allowed**.

(Samit Gopal, J.)

Order Date :- 14.12.2023

Gaurav Kuls