

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 29364 of 2023

Applicant :- Sri Ram

Opposite Party :- State of U.P.

Counsel for Applicant :- Dinesh Kumar Maurya, Ram Raj Prajapati

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Counter affidavit filed today is taken on record.
2. Heard Mr. Birendra Singh, advocate holding brief of Mr. Ram Raj Prajapati, learned counsel for the applicant, learned A.G.A. for the State and perused the record.
3. The present first bail application has been filed on behalf of the applicant in Case Crime No. 201 of 2023 under Sections 365 I.P.C. & 3/5(1) The Uttar Pradesh Prohibition of Unlawful Conversion of Religion Act, 2021, Police Station Maudaha, District Hamirpur with the prayer to enlarge him on bail.
4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. It is submitted that applicant was not named in the F.I.R. and his name surfaced in the statement of complainant recorded under Section 161 Cr.P.C. It is submitted that the incident is of 24.12.2022 and the F.I.R. has been lodged on 19.05.2023 without explaining delay. It is further submitted that applicant is implicated in the

instant case as he is the brother of main accused-Kailash and there is no cogent evidence found against the present applicant to connect the applicant with the present crime. It is contended that applicant has no criminal history apart from the present case and he is languishing in jail since 21.05.2023 and if he is granted the liberty of bail he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds and shall co-operate in the trial.

5. On the other hand, learned AGA has opposed the prayer of bail but could not controvert the aforesaid arguments as advanced by learned counsel for the applicant.

6. Considering the fact that the applicant was not named in the F.I.R., there is no cogent piece of evidence against the present applicant apart from the statement of complainant recorded under Section 161 Cr.P.C., main allegation is against co-accused-Kailash, applicant is languishing in jail since 21.05.2023 having no criminal history to his credit, case is triable by Magistrate and squarely covered by **Satender Kumar Antil vs. Central Bureau of Investigation and another, 2022 SCC OnLine SC 825** and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail. **However, since the main allegations in the F.I.R. is against co-accused-Kailash, hence, the case of the present applicant is distinguished from that of Kailash.**

6. Let applicant **Sri Ram** be released on bail in the above case crime number and on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and

(iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant 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.

(v) The applicant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 18.10.2023

Karan