

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40220 of 2023

Applicant :- Amir

Opposite Party :- State of U.P.

Counsel for Applicant :- Brij Lal Jha, Sitaram Patel, Vinkesh Ojha

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. Learned counsel for the applicant submits that applicant was granted bail by a coordinate Bench of this Court vide order dated 12.07.2021 passed in Criminal Misc. Bail Application No. 20960 of 2021. The applicant was appearing before the trial court on each and every date but suddenly he became seriously ill, on account of which he could not appear before the trial court on 17.08.2022, therefore, non bailable warrant was issued against him. The applicant moved an application for recall of non bailable warrant and the same was rejected by the court concerned, thereafter, his bail application was also rejected vide order 16.08.2023 by the court of learned Additional Sessions Judge, Court Room No. 12, Bulandshahar. Learned counsel for the applicant further submits that the applicant had not deliberately absconded from the judicial proceedings and shall not repeat the same in future. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. It is further contended by learned counsel for the applicant that the applicant is languishing in jail since 11.08.2023, having no criminal history.

3. Learned A.G.A. has opposed the prayer for bail and submits that the applicant was deliberately absconding and was not appearing before the court below and he remained absent for 11 months from

17.08.2022, but he did not dispute this fact that he was granted bail by a coordinate Bench of this Court vide order dated 12.07.2021 in the present case. He further submits that certain conditions be imposed upon the applicant so that he could not abscond again.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all 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 applicant may be enlarged on bail.

5. Let the applicant-**Amir**, involved in Session Trial No. 1893 of 2020, arising out of Case Crime No. 255 of 2020, under Sections 302, 120-B I.P.C., Police Station Narsaina, District Bulandshahar, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

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

ii) The applicant 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 applicant shall file an undertaking to the effect that he 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 applicant will not misuse the liberty of bail in any manner whatsoever. 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., may be issued and if 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 I.P.C.

(v) The applicant 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 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 and the trial court may proceed against him under Section 229-A IPC.

(vi) The applicant shall report to the concerned police station on first day of each calendar month.

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

6. 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 applicant to prison.

7. The bail application is **allowed**.

Order Date :- 16.11.2023

Mustaqeem.