Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40515 of 2023

Applicant :- Virendra Gupta
Opposite Party :- State of U.P.
Counsel for Applicant :- Dinesh Yadav
Counsel for Opposite Party :- G.A.,Ram Prakash

Hon'ble Dr. Gautam Chowdhary,J.

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

2. Learned counsel for the applicant submits that there is allegation against the applicant of committing offence of attempt to murder and threatening with common intention along with two other named accused and one unnamed accused. Learned counsel for the applicant further submits that general role has been assigned to all the assailants. Learned counsel for the applicant further submits submitted that two shots were fired, one hit the deceased and other on the hand of the injured, Sohanpal, whereas the deceased namely, Malkhan, suffered one gun shot injury and it is not clear who is author of the said injury. The witnesses who have been examined in their statements did not assign any specific role to the applicant. Learned counsel for the applicant further submits that false recovery of country made pistol has been shown by the police as there is no independent witness of such recovery. Learned counsel for the applicant further submits that charge sheet was submitted against the applicant and the co-accused, Somveer, who has already been granted bail by a coordinate Bench of this Court vide order dated 29.08.2023 passed in Criminal Misc. Bail Application No. 34371 of 2023 and the case of applicant is not on worse footing than that of the co-accused, Somveer, therefore, on the ground of parity the applicant is also entitled to be enlarged on bail. 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. He next submits that applicant is languishing in jail since 27.04.2023, having no criminal history.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant but could not dispute the aforesaid submissions made by the learned counsel for the applicant.

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, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Virendra Gupta**, involved in Case Crime No. 125 of 2023, under Sections 302, 307, 34, 504 I.P.C. and Section 3/25 of Arms Act, Police Station Rajpura, District Sambhal, 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 victim/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.

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 in accordance with law.

7. The bail application is allowed.

Order Date :- 8.11.2023
Mustaqeem.

Digitally signed by :-
MOHD MUSTAQEEM KHAN
High Court of Judicature at Allahabad