

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41236 of 2023

Applicant :- Kafil

Opposite Party :- State of U.P.

Counsel for Applicant :- Ganesh Mani, Abhishek Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and learned AGA for the State-opposite party.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 89 of 2023, under Sections 3/5/8 of Cow Slaughter Act, Police Station- Sahar, District- Auraiya, during the pendency of trial.
3. Counsel for the applicant submitted that the applicant has been falsely implicated in the present case. The applicant was not arrested at the spot. The name of the applicant surfaced during investigation. The co-accused, Ahasan, Anees and Sakir, having identical role, have been granted bail by this Court in Criminal Misc. Bail Application Nos. 39368 of 2023, 39639 of 2023 and 39281 of 2023 vide orders dated 15.09.2023, 19.09.2023 and 06.09.2023 respectively. The applicant claims parity. The criminal history of the applicant has been explained in para no. 2 of the supplementary affidavit. The applicant is in jail since 07.07.2023 and in case, he is enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record this Court prima facie finds that the applicant was not arrested at the spot. The name of the applicant surfaced during investigation. Identically placed co-accused, Ahasan, Anees and Sakir have been granted bail by this Court. Further, the applicant has remained confined for more than three months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case,

I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant **Kafil**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence; and,

(iii) shall not pressurize the prosecution witnesses.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 17.10.2023

Sachin Mishra