

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41910 of 2023

Applicant :- Sonu Jaiswal @ Anand Jaiswal And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Dwivedi, Akhilesh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. Heard Sri Pankaj Dwivedi, learned counsel for the applicants, Sri Sunil Kumar, learned A.G.A. for the State and perused the material placed on record.
2. Applicants seek bail in Case Crime No.224 of 2023, under Sections 3/5A/8 Cow Slaughter Act, Police Station- Chandauli, District- Chandauli, during the pendency of trial.
3. As per prosecution story, on 12.8.2023 the vehicle of the applicant was intercepted by the police, whereby two animals belonging to cow progeny were recovered from it. The applicants and other co-accused person were arrested at the spot.
4. Learned counsel for the applicants has argued that the applicants are absolutely innocent and have been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize them. The applicants have nothing to do with the said offence. No offence under Cow Slaughter Act is made out against the applicants. Offence, if any, is made out under the Prevention of Cruelty to Animals Act. Learned counsel has stated that the applicant no.1 was not named in the said mentioned criminal history of Case Crime No.189 of 2023 and the bail application in the said case is also pending. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. The applicants are languishing in jail since 12.8.2023. In case, the applicants are released on bail, they will not misuse the liberty of bail.

5. Learned A.G.A. has vehemently opposed the bail application.

6. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for bail. The bail application is allowed.

7. Let the applicants- **Sonu Jaiswal @ Anand Jaiswal** and **Anil Kumar**, who are involved in aforementioned case crime be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) 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.

(ii) The applicants shall remain present before the Trial Court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the Trial Court may proceed against them under Section 229-A IPC.

(iii) 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 them, in accordance with law, under Section 174-A IPC.

(iv) 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 them in accordance with law.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. It is made clear that observations made in granting bail to the applicants shall not in any way affect the learned trial Judge in forming their independent opinion based on the testimony of the witnesses.

Order Date :- 16.10.2023

Vikas

[Krishan Pahal, J.]