

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43284 of 2023

Applicant :- Bhure @ Bhura And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Purnima

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicants, learned A.G.A. and perused the record.
3. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.498 of 2023 under Sections 3/5/8 of the U.P. Prevention of Cow Slaughter Act Police Station Sikandra Rao District Hathras.
4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The applicants were not named in the FIR. The applicants were not arrested at the spot. The applicants were arrested in Case Crime No. 537 of 2023 under Sections 307/34 IPC and thereafter they have been falsely implicated in the instant case. Nothing incriminating has been recovered from the possession of the present applicants. There is no cogent piece of evidence to connect the applicants with the offence. Apart from the instant case the applicants have criminal history of one more case bearing Case Crime No. 537 of 2023 in which the applicants have already been enlarged on

bail. Copy of bail order is also brought on record as annexure No. SA-1. There is no cogent piece of evidence so as to connect the present applicants with the instant matter. Identically situated co-accused Ikrar has already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No.43440 of 2023 vide order dated 11.10.2023. The applicants are seeking parity in relief granted to the aforesaid co-accused. The applicants are languishing in jail since 07.09.2023, in case they are enlarged on bail, they will not misuse the liberty of bail and will cooperate in the trial proceedings.

5. On the other hand, learned AGA has opposed the prayer for bail but could not controvert the aforesaid factual matrix.

6. Considering the facts and circumstances of the case and taking into account that the applicants were not named in the FIR, the applicants were not arrested at the spot, identically situated co-accused Ikrar has already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No.43440 of 2023 vide order dated 11.10.2023 and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

7. The bail application is allowed.

8. Let applicants-Bhure alias Bhura and Shakil be released on

bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of his absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(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. is issued and the 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 of the Indian Penal Code.

(iv) The applicants 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

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.

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

(Renu Agarwal,J.)

Order Date :- 18.10.2023

Nadeem