Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45104 of 2023

Applicant :- Mohammad Sami And Another
Opposite Party :- State of U.P.
Counsel for Applicant :- Mohammad Waseem
Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicants and learned A.G.A. for the State-opposite party.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicants on bail in Case Crime No. 250 of 2023, under Sections 147, 148, 149, 307, 332, 353, 341, 342, 109, 504 I.P.C. and 7 Criminal Law Amendment Act, Police Station Sheeshgarh, District Bareilly during the pendency of the trial.

3. Learned counsel for the applicants submits that the applicants were not named in the first information report and have been falsely implicated in the instant case. In the first information report 400-500 unknown persons are nominated. A vague and general role has been assigned to the applicants. It is next contended that identically placed co-accused Akaram has been granted bail by this Court in Criminal Misc. Bail Application No. 43740 of 2023, Akaram v. State of U.P., vide order dated 13.10.2023. The applicants claim parity. The applicants are in jail since 21.08.2023 having no criminal history and if they are released on bail, they will not misuse the said liberty.

4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicants were not named in the first information report and a vague and general role has been assigned to the applicants. Identically placed co-accused Akaram has been granted bail by this Court. The applicants have no criminal antecedents. Moreover, the applicants have remained confined for almost two months and after

submission of the charge-sheet there is no hope of early conclusion of trial, and no reasonable apprehension has been brought to the fore by the State that the applicants, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, therefore, without commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

6. Let the applicants- Mohammad Sami and Anas, involved in the aforesaid case, be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned subject to the conditions that they:

(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 :- 27.10.2023
SKT/-

Digitally signed by :-
SHIVA KANT TIWARI
High Court of Judicature at Allahabad