Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45369 of 2023

Applicant :- Mahesh
Opposite Party :- State of U.P.
Counsel for Applicant :- Sarvajeet Singh
Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State and perused the material on record.

2. Certified copy of the FIR filed by counsel for the applicant is taken on record.

3. By means of this application, the applicant, Mahesh, who is involved in Case Crime No. 170 of 2022 under Sections 302, 323, 504, 506 I.P.C., P.S. Binawar, District Budaun and is in jail since 21.01.2023 is seeking enlargement on bail during the trial.

4. It is submitted by learned counsel for the applicant that similarly placed co-accused, Sanjeev, has already been enlarged on bail by this Court by order dated 24.11.2022 passed in Criminal Misc. Bail Application No. 53172 of 2022. He has further submitted that since the role of the applicant is identical to that of co-accused, Sanjeev, who has already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity and for the reasons given in the order of co-accused.

5. The prayer for bail has vehemently been opposed by learned A.G.A.

6. Considering the submissions made by learned counsel for the applicant as well as learned A.G.A., this Court is of the view that the applicant has made out a case for grant of bail on the ground of parity.

7. In view of the above, let the applicant be released on bail on his executing a personal bond and furnishing two sureties each in the like amount to the satisfaction of the court concerned with the following conditions :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he 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.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

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

(v) The applicant 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 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.

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

8. Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 28.10.2023
Rohit

Digitally signed by :-
ROHIT DAS
High Court of Judicature at Allahabad