

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45405 of 2023

Applicant :- Gayyur And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit, filed by the counsel for the applicants, is taken on record.
2. Heard learned Counsel for the applicants and Sri Neeraj Kumar Sharma, learned A.G.A. for the State. Perused the records.
3. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicants on bail in Case Crime No. 235 of 2023, under Section 3/5A/8 U.P. Cow Slaughter (Prevention) Act, Police Station- Nagal, District- Saharanpur during pendency of the trial.
4. Counsel for the applicants submits that the applicants have been falsely implicated in the instant case. False recovery of cow meat and other articles has been shown from the possession of the applicants. There is no independent witness to the alleged recovery. There is no F.S.L. report to establish that the substance recovered is cow meat. It is next contended that the identically placed co-accused Allahdiya has been granted bail by this court vide order dated 26.10.2023 passed in Criminal Misc. Bail Application No. 44964 of 2023. The applicants claim parity. The criminal history of the applicants have been explained in para 2 of the supplementary affidavit. The applicants are in jail since 1.9.2023. In case they are enlarged on bail, they will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that there is no independent witness to the alleged recovery. Identically placed co-accused Allahdiya has been granted bail by this court. Further the applicants have presently remained confined for more than two months and 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 applicants, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

7. Let the applicants, **Gayyur** and **Riyasat** involved in the aforesaid case be released on bail on their furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicants shall not tamper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness;
- iii. the applicants shall appear on each and every date fixed by the trial court.

8. 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 :- 16.11.2023
S.S.