

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46302 of 2023

Applicant :- Rehan

Opposite Party :- State of U.P.

Counsel for Applicant :- Nayab Ahmad Khan

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri Anupam Anand, learned brief holder for the State and perused the record.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 421 of 2023, under Sections 3/5/8(1) Cow Slaughter Act, Police Station- Phoolpur, District- Azamgarh during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of cow meat and instruments used for slaughtering has been shown from a house which belongs to co-accused Shamshad. There is no independent witness to the alleged recovery. It is next contended that identically placed co-accused Jamaluddin has been granted bail by this Court vide order dated 09.11.2023 passed in Criminal Misc. Bail Application No. 46511 of 2023. The applicant claims parity. The applicant is in jail since 22.9.2023 having no criminal history and in case he is enlarged on bail, he 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 counsel for the parties and having perused the record, this Court prima facie finds that there is no independent witness to the alleged recovery. At this stage, there is no substantive evidence against the applicant. Identically placed co-accused Jamaluddin has been granted bail by this Court. The applicant has no criminal antecedents. Further the applicant has 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 applicant, 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 applicant is entitled to be enlarged on bail.

6. Let the applicant, **Rehan** involved in the aforesaid case be released on bail on his 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 applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 5.12.2023

Lbm/-