

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48418 of 2023

Applicant :- Gulab Babu Banjara

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Waseem

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Umesh Kumar Mishra, learned brief holder for the State-opposite party.
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. 157 of 2023, under Sections 3/5/8 of Cow Slaughter Act, Police Station- Shahi, District- Bareilly, during the pendency of trial.
3. Counsel for the applicant submitted that the applicant was not named in the first information report and has been falsely implicated in the present case. The name of the applicant surfaced during investigation. No recovery of any incriminating article has been made from the applicant. At this stage, there is no cogent evidence to link the applicant with the offence. The criminal history of the applicant has been explained in para no. 14 of the bail application. In all the cases, the applicant has been enlarged on bail. The applicant is in jail since 28.08.2023 and in case, he is enlarged on bail, he will not misuse the said liberty.
4. Learned brief holder 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 the applicant was not named in the first information report. The name of the applicant surfaced during investigation. No recovery has been made from the applicant. At this stage, there is no substantive evidence against the applicant. Further, the applicant has remained confined for more than three months and after submission of the charge-sheet 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 delay the trial or intimidate the witness, without

commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant **Gulab Babu Banjara**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (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 :- 30.11.2023
Sachin Mishra