

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48827 of 2023

Applicant :- Mohd. Azad And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Naushad Siddiqui, Bipin Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the material brought on record.
2. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.283 of 2023, under Section 3/5A/5B/8 of Cow Slaughter(Prevention) Act, section 11 of Prevention of Animal Cruelty Act, section 429 IPC and section 4/25 Arms Act, Police Station Chandauli, District Chandauli.
3. Learned counsel for the accused-applicants submitted that the applicants have been falsely implicated in the instant case due to ulterior motive. Applicants are driver & cleaner of the vehicle in question. No beef or other incriminating articles were recovered from the possession or pointing out of the present application. From the possession of applicant no.1 Mohd. Azad one mobile and Rs.300/- case and from the possession of applicant no.2 Kasim Rs.200/- cash are said to have been recovered, there is no public witness of said recovery. It is further contended that case does not travel beyond Animal Cruelty Act, which is bailable offense. The applicants are peace loving and law abiding citizen of the society and they have never been convicted by any court of law. It is

further submitted applicants were arrested by the police with the animals who were in conscious condition. The applicants are languishing in jail since 17.10.2023 and in case they are granted bail, they will not misuse the liberty and would cooperate in the trial proceedings.

4. On the other hand, learned AGA for the State has opposed the prayer for bail but could not controvert the above mentioned facts.

5. Considering the facts and circumstances of the case and taking into account that applicants are driver & cleaner of the vehicle in question, no beef or other incriminating articles has been recovered from the possession or pointing out of the present application, from the possession of applicant no.1 Mohd. Azad one mobile and Rs.300/- case and from the possession of applicant no.2 Kasim Rs.200/- cash are said to have been recovered, there is no public witness of said recovery, applicants are languishing in jail since 17.10.2023 and undertakes that in case they are granted bail, they will not misuse the liberty and would cooperate in the trial proceedings, without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicants on bail.

6. Let applicants-**Mohd. Azad and Kasim** be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they 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.

(ii) The applicants shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants 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 applicants 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.

(iv) The applicants 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.

(v) The applicants shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicants shall also give an undertaking to the effect that they will not change their address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 23.11.2023
VKG