

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49821 of 2023

Applicant :- Aman Kumar Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Harendra Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Heard learned counsel for the applicant, 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.15 of 2022 under Sections 147, 148, 149, 307, 504, 506, IPC 1860, Police Station Tamkuhiraj, District Kushi Nagar.

3. Learned counsel for the accused-applicant submitted that the applicant has been falsely implicated in the instant case due to ulterior motive. Applicant was not named in the FIR. Name of applicant is surfaced on the basis of the statement of co-accused Shiwam Kumar Singh, who has been enlarged on bail by the Co-ordinate Bench of this Court vide order dated 10.10.2022 passed in Criminal Misc. Bail Application No.44291 of 2022. Nothing incriminating has been recovered from the possession of present applicant. General allegations are levelled against all the accused persons in the FIR who misbehaved with the owner of restaurant when he asked for payment of dinner. No specific allegation of fire was assigned to the present applicant. This is 'no injury case' as none of the person has sustained any injury of fire arm. No weapon was recovered from the possession of present applicant. Apart from the present case the applicant has no criminal history, as mentioned in para-17 to the affidavit filed in support of the bail application. Co-accused Vishal Kumar has been enlarged on bail by the trial court vide order dated 24.09.2022. The applicant is languishing in jail since 16.10.2023 having no criminal history and in case he is granted bail, he 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 applicant was not named in the FIR, name of applicant is surfaced on the basis of the statement of co-accused Shiwam Kumar Singh, who has been enlarged on bail by the Co-ordinate Bench of this Court vide order dated 10.10.2022 passed in Criminal Misc. Bail Application No.44291 of 2022, nothing incriminating has been recovered from the possession of present applicant, general allegations are levelled against all the accused persons in the FIR who misbehaved with the owner of restaurant when he asked for payment of dinner, no specific allegation of fire was assigned to the present applicant, this is no injury case as none of the person has sustained any injury of fire arm, no weapon was recovered from the possession of present applicant, apart from the present case the applicant has no criminal history, as mentioned in para-17 to the affidavit filed in support of the bail application, co-accused Vishal Kumar has been enlarged on bail by the trial court vide order dated 24.09.2022, applicant is languishing in jail since 16.10.2023 having no criminal history and undertakes that in case he is granted bail, he 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-applicant on bail. Applicant is resident of Village Bijulpur, Police Station Gopalganj, District Gopalganj, State of Bihar, hence the he is directed to execute at least one local surety with the satisfaction of court concerned. The court concerned shall verify the local surety before accepting the same. The applicant shall also file his aadhar card, voter card or other document relating to his permanent address proof.

6. Let applicant-**Aman Kumar Singh** be released on bail in the above case crime number on his furnishing a personal bond and two sureties(**one should be local surety**) each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) 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.

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

(iii) 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.

(iv) 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.

(v) The applicant 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 applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 30.11.2023
VKG