

**Court No. - 77**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 50773 of 2023

**Applicant :-** Deepak

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Kamlesh Kumar Tiwari, Shyama Devi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Mrs. Renu Agarwal, J.**

Heard learned counsel for the applicant, learned A.G.A. and perused the record.

The present application for bail has been filed seeking bail in Case Crime No. 213 of 2023, under Section 3/5A/5B/8 Cow Slaughter Prevention Act and 11 Animal Cruelty Prevention Act, Police Station Balua, District Chandauli.

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 and his name surfaced in the statement of co-accused. His name was dragged in this matter because he is the owner of the alleged vehicle and the police implicated him on the basis of searching his name in the E-Chalaan App. It is further submitted that neither the beef nor any slaughtering weapon was recovered from the possession of the applicant, moreover, the applicant was not arrested at spot. It is contended that there is no independent witness of the alleged recovery. It is next contended that co-accused, who were arrested at spot, namely, Suraj Kumar and Guddu Kumar have already been enlarged on bail by the coordinate Bench as well as this Court vide orders dated 06.11.2023 and 24.11.2023, passed in Criminal Misc. Bail Application No. 47058 of 2023 and Criminal Misc. Bail Application No. 49030 of 2023 respectively, therefore, the case of the applicant stands on better footing, hence the applicant is also entitled for the liberty of bail on the ground of parity. The applicant is languishing in jail since 20.10.2023 having no criminal history to his credit, in case the applicant is enlarged on bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

Per contra, learned A.G.A. opposed the prayer of bail, but could not controvert the aforesaid arguments as advanced by learned counsel for the applicant.

Considering the facts and circumstances of the case and taking into account that applicant was not named in the FIR, his name surfaced in the statement of co-accused, co-accused, who were arrested at spot, namely Suraj Kumar and Guddu Kumar who have already been enlarged on bail vide orders dated 06.11.2023 and 24.11.2023, passed in Criminal Misc. Bail Application No. 47058 of 2023 and Criminal Misc. Bail Application No. 49030 of 2023 respectively, there is no independent witness of the alleged recovery, nothing incriminating has been recovered from the possession of the applicant, applicant was not arrested at spot, applicant is languishing in jail since 20.10.2023 having no criminal history to his credit, without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

Let applicant **Deepak** be released on bail in the above case crime number on his furnishing a personal bond and two sureties 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.

**(Renu Agarwal,J.)**

**Order Date :- 28.11.2023**

Vikram