

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50309 of 2023

Applicant :- Ajay Alias Deepu

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Kumar Mishra

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 for bail has been filed seeking bail in Case Crime No.243 of 2023, under sections 147, 148, 149, 504, 506, 307, 34, IPC and section 3/25 Arms Act, Police Station Mohammadabad, District Farrukhabad.

3. Learned counsel for the accused-applicant submitted that the applicant has been falsely implicated in the instant case due to ulterior motives. It is submitted that there is family dispute between the informant and applicant. According to present FIR dated 04.10.2023 12 persons including the applicant have assaulted the informant. Two co-accused namely Anil and Awadesh have been enlarged on bail by the trial court vide order dated 21.10.2023 and 08.11.2023. The bail application of the applicant has been rejected by the trial court on the ground that one fire arms was recovered from the possession of the present applicant. There is no independent or public witness of the alleged recovery. It is submitted that no injury caused to any of the persons during this incident, hence no offence under section 307 IPC is made out against the applicant. Apart from the present case applicant has no criminal history, as mentioned in para-14 to the affidavit filed in support of the bail application. The applicant is languishing in jail since 31.10.2023 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 has opposed the prayer for bail and submitted that there is family dispute between the informant and applicant and the applicant has repeatedly assaulted the informant. Informant has also registered the FIR against the applicant and four other persons on 01.10.2023 in Case Crime No.240 of 2023, under sections 147, 323, 504, 506, IPC. One

more case after this incident was happened on 03.10.2023, which was registered as Case Crime No.244 of 2023, under section 147, 148, 149, 352, 336 and section 7 Arms Act. If the applicant is released on bail he shall repeated the crime, hence opposed the bail application.

5. Considering the facts and circumstances of the case and taking into account that there are family dispute between the parties and three consequential incidents happened between the applicant and the informant side, however, in this case no injury caused to the informant side, no medical report is found on the record, two co-accused namely Anil and Awadesh have been enlarged on bail by the trial court vide order dated 21.10.2023 and 08.11.2023, hence the applicant is also deserves to be enlarged on bail on the ground of parity, apart from the present case applicant has no criminal history, as mentioned in para-14 to the affidavit filed in support of the bail application, applicant is languishing in jail since 31.10.2023 and undertakes that in case he is enlarged 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.

6. Let applicant **Ajay Alias Deepu** 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.

(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.

It is made clear that if the applicant is found in any way threatening and tempering with the informant, the bail of the applicant shall automatically stand cancelled and the court concerned as well as the police authority concerned shall be at liberty to taken appropriate action against the applicant. The applicant is also directed to execute personal bond in the above case stating that he will not engaged in any criminal activity after released on bail in the present case.

(Renu Agarwal,J.)

Order Date :- 24.11.2023
VKG