

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50350 of 2023

Applicant :- Meena

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Pandey

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 record.

2. The present first bail application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No. 874 of 2023 under Sections 3/5/8 U.P. Prevention of Cow Slaughter Act and Section 4/25 Arms Act, Police Station Kotwali Padrauna, District Kushinagar with the prayer to enlarge him on bail.

3. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. Allegations as per the F.I.R. is that on the basis of information received from informer, one woman was apprehended, in whose confessional statement she stated that she sold 20 Kg of beef to the present applicant. It is submitted that the name of the present applicant surfaced in the confessional statement of co-accused-Sahana. It is submitted that 20 Kg of beef, one weighing scale, one *Thiha*, one knife, some hoofs and horns are alleged to have been recovered from the possession of the applicant. It is further submitted that there is no public witness of the alleged recovery. There is no F.S.L. report to substantiate that the alleged recovered meat is beef. Applicant is languishing in jail since 16.09.2023 having no

criminal history apart from this case as is disclosed in paragraph No. 13 of the affidavit filed in support of the bail application and if she is granted the liberty of bail she will not misuse the same and she is ready to furnish her sufficient sureties, bonds and personal bonds and shall co-operate in the trial.

4. On the other hand, despite time granted twice, learned AGA has submitted that he has still not received instructions in this case .

5. Considering the fact that there is no public witness of the alleged recovery, there is no F.S.L. report on record to substantiate that the alleged recovered meat is beef, applicant is languishing in jail since 16.09.2023 having no criminal history to her credit, despite time granted twice neither instructions have been received nor counter has been filed and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail.

6. Let applicant **Meena** be released on bail in the above case crime number and 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 she 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 her counsel. In case of her absence, without sufficient

cause, the trial court may proceed against her 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 her 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 her, 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 her 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 she will not change her address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 8.12.2023/Karan