

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51294 of 2023

Applicant :- Riyaz

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State and perused the record.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 417 of 2023, under Section 3/5/8 of U.P. Prevention of Cow Slaughter Act, 1955, Police Station- Akbarpur, District- Kanpur Dehat during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant was not arrested at the spot. The applicant was nominated as an accused in the first information report pursuant to the statements of the co-accused Sani and Shadab before the police authorities. The said statements, insofar as it implicate the applicant, is unreliable. No recovery of any incriminating articles has been made from the applicant. The applicant was arrested in Case Crime No. 418 of 2023 and has been implicated in the instant case. The criminal history of the applicant has been explained in para 9 of the bail application. The applicant is in jail since 2.10.2023. In case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that The applicant was not arrested at the spot. The applicant was nominated as an accused in the first information report pursuant to the statements of the co-accused Sani and Shadab before the police authorities. No recovery of any incriminating articles has been made from the applicant. Further the applicant has presently remained confined for more than two months and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on

bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Riyaz** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

7. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 11.12.2023
S.S.