

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52718 of 2023

Applicant :- Liyakat And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Santosh Kumar Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Heard learned counsel for the applicants and Sri R.M. Yadav, learned A.G.A. for the State and perused the material placed on record.
2. Applicants seek bail in Case Crime No. 212 of 2023, U/S 326, 34 IPC, Police Station- Dilari, District- Moradabad, during the pendency of trial.
3. The instant bail application has been filed in the added Sections of 326, 34 IPC. The applicant was enlarged on bail vide order dated 22.8.2023 by the Court of C.J.M. Moradabad, under Sections 452, 323, 504, 506 IPC.
4. Learned counsel for the applicants has argued that the applicants are absolutely innocent and have been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize them. He has further stated that the applicants have not misused the opportunity granted earlier on but the final report has been filed in the added Sections. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. The applicants are languishing in jail since 25.8.2023 having no criminal antecedents. In case, the applicants are released on bail, they will not misuse the liberty of bail.
5. Learned A.G.A. has vehemently opposed the bail application, but has not disputed the fact that there is no criminal history of the applicants.
6. Keeping in view the nature of the offence, evidence on record

regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for bail. The bail application is allowed.

7. Let the applicants- **Liyakat, Sarfaraj and Arif**, who are involved in aforementioned be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicants shall not tamper with the evidence.

(ii) The applicants shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicants 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 them in accordance with law.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. It is made clear that observations made in granting bail to the applicants shall not in any way affect the learned trial Judge in forming their independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 15.12.2023

Shalini