Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 786 of 2023

Applicant :- Rahul Tiwari
Opposite Party :- State Of U.P. Thru. Secy. Deptt Of Home Lko.
Counsel for Applicant :- Ravindra Shukla,Vaibhav Srivastava
Counsel for Opposite Party :- G.A.,Anjani Kumar Dvivedi,Arun Kumar Mishra

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant, Sri Anjani Kumar Dwivedi, learned counsel for the applicant, Sri Ran Vijay Singh, learned A.G.A. for the State and perused record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.209 of 2022 under Section 34/302 IPC, PS Tarun district Faizabad Ayodhya,

3. Learned counsel for the applicant has submitted that Case of the applicant is at par with the co-accused Dev Nath who has been granted bail by this Court in Crl. Misc. Bail Application No.11118 of 2023 on 10.10.2023. He has further submitted that he has also adopted the same argument and pressing the same grounds which have been argued in the case of co-accused Dev Nath. He has further submitted that the applicant has no other criminal history and he is in jail since 24.7.2022.

4. On the other hand, learned counsel for the complainant has opposed the bail but he could not dispute the fact that co-accused Dev Nath has been granted bail and the case of the applicant is at par with the co-accused. Learned A.G.A. has also opposed the prayer for bail but could not dispute the aforesaid facts and the fact that the case of applicant is at par with the co-accused who has been granted bail.

5. Considering over all facts and circumstances of the case, the argument that the co-accused has been granted bail by this Court and the case of the applicant is at par with the co-accused, it is a fit case for bail.

6. Let the applicant, Rahul Tiwari 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.

7. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 2.11.2023
Rajneesh JR-PS)

Digitally signed by :-
RAJNEESH KUMAR
High Court of Judicature at Allahabad,
Lucknow Bench