

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6173 of 2023

Applicant :- Azeem

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home U.P. Lko.

Counsel for Applicant :- Mithila Bakhsh Tiwari, Babban Prasad Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh, J.

1. Vakalatnama filed on behalf of the informant of the present case by Shri Anil Pratap Singh, Advocate and Shri Akshay Kumar Singh, Advocate is taken on record.

2. Heard learned counsel for the accused-applicant, learned Counsel appearing on behalf of the informant and learned A.G.A. appearing for the State-respondents and perused the record.

3. The present bail application under Section 439 has been filed on behalf of the accused-applicant in Case Crime No.728 of 2018, under Sections 147, 148, 149, 307, 302 and 504 I.P.C. and Section 7 Criminal Law Amendment Act, Police Station-Bachchrawan, District-Raebareli, with the prayer to enlarge him on bail.

4. This is the second bail application filed on behalf of the accused-applicant. The first bail application filed on behalf of the accused-applicant has been rejected by this Court vide order dated 19.05.2022 passed in Criminal Misc. Bail Application No.6982 of 2019.

5. Learned counsel for the accused-applicant submits that accused-applicant is an innocent person and has been falsely implicated in the present case and he is in jail since 25.11.2018. He further, submits that co-accused, namely-Pappu Bhaijan @ Hafeej has already been granted bail by this Court vide order dated 21.11.2022 passed in Criminal Misc. Bail Application No.9496 of 2021 (Annexure No.11). In these circumstances, the applicant is also entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

6. Learned A.G.A. and learned Counsel for informant has opposed the prayer for grant of bail to the applicant but has fairly conceded that similarly situated co-accused, namely- Pappu Bhaijan @ Hafeej has already been granted bail by this Court.

7. Considering the submissions made by learned counsel for the applicant, learned A.G.A. and learned Counsel for informant, going

through the record, long incarceration of the accused-applicant in jail pending trial as well as bail order of co-accused, this Court deems it appropriate to enlarge/release the accused-applicant on bail. The bail application is allowed on the ground of parity.

8. Let the applicant-**Azeem**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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 IPC.

(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., may be issued and if 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 IPC.

(iv) The applicant 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 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.

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

(Dinesh Kumar Singh, J.)

Order Date :- 24.5.2023

Piyush/-