

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10715 of 2023

Applicant :- Kalingapatna Gauri

Opposite Party :- Union Of India Thru. Intelligence Officer
Narcotics Control Bureau Lko

Counsel for Applicant :- Prathama Singh, Pal Singh Yadav

Counsel for Opposite Party :- Akhilesh Kumar Awasthi

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri Rajneesh Kumar Verma, learned A.G.A. for the State and perused record.

Counter affidavit filed by Sri Akhilesh Kumar Awasthi, learned counsel for the opposite party NCB (Union of India) and the Rejoinder affidavit filed today, are taken on record.

2. The first bail application Crl. Misc. Bail Application No.801 of 2019 was rejected on 9.3.2022 and the second bail application Crl. Misc. Bail Application No.4069 of 2022 was rejected on 26.4.2022.

3. This is third bail application in Case No.2407 of 2019, NCB Crime No.24 of 2018 under Section 8/20/27A/29/60 (3) NDPS Act, PS NCB, Lucknow.

4. Learned counsel for the applicant has submitted that after rejection of second bail application, co-accused Satveer Singh has been granted bail by this court in Crl; Misc. Bail Application No.8425 of 2019 on 16.10.2023, therefore, the present third bail application has been filed.

5. Learned counsel for the applicant has submitted that co-accused Satveer Singh has been granted bail by this Court in Crl. Misc. Bail Application No.8425 of 2019 on 16.10.2023, copy of bail orders has been produced by the learned counsel for the applicant. He has submitted that he is pressing the same grounds as taken in the case of the co-accused who has been granted bail. He has submitted that the case of the applicant is at par with the co-accused who has been granted bail. He has submitted that the applicant has no other criminal history and he is in Jail since 2.10.2018 for the last more than 5 years and sufficient period has been undergone by him in Jail.

6. Sri Akhilesh Kumar Awasthi, learned counsel for NCB, opposite party has opposed the prayer for bail but could not dispute the fact that the case of the applicant is at par with the co-accused who have been granted bail and the applicant is in Jail for the last more than 5 years.

7. Considering over all facts and circumstances of the case, the argument that the case of the applicant is at par with the co-accused who has been granted bail, and the argument that long period of 5 years have been undergone by the applicant in Jail, it is a fit case for bail.

8. Let the applicant, Kalingapatna Gauri 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.

9. 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 :- 28.11.2023
Rajneesh JR-PS)