

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11166 of 2023

Applicant :- Aryan Verma

Opposite Party :- State Of U.P., Thru. The Prin. Secy. Home Deptt. Lko. And Others

Counsel for Applicant :- Arvind Kumar Verma, Atul Verma

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard learned counsel for the applicant, Sri M.V.S. Chauhan, learned A.G.A. for the State and perused record.

2. Notice has been served on the O.P. No.2 but none is present.

3. This is third bail application. The first bail application Crl. Misc. Bail Application No.3968 of 2022 was rejected by Hon'ble Mr. Justice Dinesh Kumar Singh, J. on 22.4.2022 and the second bail application Crl. Misc. Bail Application No.8354 of 2023 was dismissed as not pressed on 25.8.2023 by this Court.

4. This third bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.1152 of 2021 under Section 323/506/376-D IPC and 5(g)/6 POCSO Act, PS Kotwali Sadar, district Lakhimpur Kheri.

5. Learned counsel for the applicant has submitted that after rejection of first bail application, the co-accused Ashish Kumar Verma has been granted bail in Crl. Misc. Bail Application No.4901 of 2023 on 12.4.2023 co-accused Arpit Verma has been granted bail by this Court in Crl. Misc. Bail Application No.4200 of 2022 on 24.4.2023, co-accused Purushottam Verma has been granted bail by this Court in Crl. Misc. Bail Application No.9026 of 2022 on 24.4.2023, and co-accused Shivam Verma has been granted bail by this court in Crl. Misc. Bail Application No.11903 of 2022 on 13.7.2023, copies of the said bail orders have been annexed to the bail application as Annexure No.4, 5, 6, and 7 respectively. He has submitted that in the statement of prosecutrix under Section 164 the co-accused have been assigned same role who have been granted bail. He has further submitted that the case of the applicant is at par with the co-accused. He has submitted that the applicant has no criminal history and he is in Jail since 20.11.2021.

6. Learned A.G.A. though opposed the prayer for bail but could not dispute the fact that the co-accused have been granted bail and the case of the applicant has been assigned similar role and his case is at par with the co-accused who have been granted bail.

7. Considering over all facts and circumstances of the case, the argument that the co-accused have been granted bail and the case of the applicant is at par with the co-accused who have been granted bail, it is a fit case for bail.

8. Let the applicant, Aryan Verma 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 :- 12.10.2023
Rajneesh JR-PS)