

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12392 of 2023

Applicant :- Amarnath @ Mungri

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

Counsel for Applicant :- Anil Mishra, Rajat Raj Narayan Bajpai, Vineet Kumar Verma

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Learned A.G.A. informs that he has procured complete instructions in the matter including up-to-date case diary.
3. Heard Shri Anil Mishra, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.
4. This bail application has been moved by the accused/applicant- **Amarnath @ Mungri** for grant of bail, in Case Crime No. 252 of 2014, under Section 8/18/22 N.D.P.S. Act, Police Station Banthra, District Lucknow, during trial.
5. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. However, having regard to the latches inherent in the case of the prosecution the applicant was granted bail by the Court of Additional District and Sessions Judge, Court No.3 Lucknow vide order dated 18.11.2014 passed in Bail Application No. 53 of 2014. However, after release on bail the counsel of the applicant engaged at the level of the trial Court did not inform the applicant that the charge sheet in this case has already been filed and it is informed that when the applicant would receive any process of the Court he would be obliged to appear.
6. It is further submitted that since the release of the applicant on bail the applicant has not received any process of the trial Court and suddenly he was arrested by the police and the bail application moved by the applicant before the trial Court has also been rejected without there being any basis and it has been ignored that no process of the trial Court has ever been served by the police and the non-bailable warrants have been issued in

utter disregard to the law laid down by the Hon'ble Supreme Court where under at first the process of summons should have been issued and it is only after the service of summons the other coercive process could be issued.

7. It is further submitted that though, the applicant is having criminal history of 15 cases but the bail of the applicant in the instant case was granted by the trial Court after considering the same and the warrants has been issued in this case only on the ground that the applicant has failed to remain present before the trial Court. Therefore, the instant bail application is not being placed on merits rather the applicant is on bail and he could not appear before the trial Court.

8. It is also submitted that applicant is languishing in jail in this case since 13.08.2023 and he undertakes that he will remain present before the trial Court as and when his presence would be required and will not seek any adjournment on such dates including the date on which the prosecution witnesses would be in attendance. There is no apprehension that after being released on bail he may flee from the course of law or may otherwise misuse the liberty.

9. Learned A.G.A. on the other hand submits that applicant is absconder and despite being granted the facility of bail he did not comply the terms and conditions of the same and, therefore, he is not entitled to be released on bail. Moreover, he is also having criminal history of 15 cases.

10. Having heard learned counsel for the parties and having perused the record, it is transpired that earlier the applicant was granted bail in this case by the trial Court. However, he failed to remain present before the trial Court and ultimately the coercive process was issued where under he was arrested and is in jail since 13.08.2023. Various submissions have been raised by learned counsel for the applicant in order to show that applicant did not receive any process of the trial Court before his arrest.

11. Be that as it may, the applicant has been in jail in this case since 13.08.2023. He was already granted bail in this case in the year 2014. Charge sheet also appears to have been submitted before the trial Court on 27.10.2014. Thus, having regard to all the facts and circumstances of the case, in the considered opinion of this Court, the facility of bail may again be provided to the applicant, however, subject to certain restrictions.

12. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing

any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

13. Let the accused/applicant- **Amarnath @ Mungri** involved in above-mentioned case, be released on bail on his furnishing a personal bond with **two heavy sureties** in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) **The applicant shall remain present before the trial court on each and every date whereon his presence would be required by the trial court and shall not seek any adjournment especially on the dates when the prosecution witnesses would be in attendance and if in any case applicant is not in a position to remain present before the trial Court, he shall instruct his counsel to remain present and to do all which is required for the expeditious disposal of the case including cross-examination of the prosecution witnesses, failing which, the trial Court shall be free to cancel the facility of bail granted by this Court.**

(ii) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(iii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iv) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

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

15. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

16. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 26.10.2023

Praveen