

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11889 of 2023

Applicant :- Sabir Ali @ Dankey And Another

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

Counsel for Applicant :- Mohd. Tabrez Iqbal, Khushnuma Bano

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Mohd. Tabrez Iqbal, learned counsel for the applicants, Sri Akhilesh Kumar Vyas, learned A.G.A. for the State and perused the records.
2. The instant application has been filed seeking release of the applicants on bail in Case Crime No.425 of 2023, under Sections 3/5/25 Arms Act, registered at Police Station Kotwali Bhinga, District Shrawashi.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 19.08.2023 at 13:48 Hours by an Inspector of Police, against three persons, including the applicants, alleging that while a police team was involved in night patrolling on 19.08.2023, on the basis of information received from a mukhbir, accused persons were apprehended from a place within reserved forest area while they were involved in making illicit firearms.
4. Three guns and three pistols, besides some articles used in making illegal fire arms, were recovered from the spot.
5. In the affidavit filed in support of bail application, it has been stated that the applicants are innocent, they have been falsely implicated in the present case. A supplementary affidavit has been filed on behalf of the applicants stating that applicant No.1 is involved in two other cases in both of which, he has been granted bail. Applicant No.2 has no criminal history.
6. Learned counsel for the applicant has submitted that it is strange that in the FIR lodged at 13:48 Hours on 19.08.2023, it is stated that the applicant was apprehended when the police party got information from a mukhbir during night patrolling on 19.08.2023. Apparently, the FIR has been lodged prior to the alleged time of making recovery, which makes the entire recovery doubtful. Co-accused Sonu has been granted bail by means of the order dated 17.10.2023 passed in CRIMINAL MISC. BAIL APPLICATION No.12139 of 2023.
7. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

8. Having considered the aforesaid facts and circumstances of the case and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicants on bail in the aforesaid crime.

9. Accordingly, this bail application stands allowed.

10. Let the applicants-Sabir Ali and Tabarak Ali be released on bail in aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicants shall not tamper with the prosecution evidence;
- (ii) the applicants shall not pressurize the prosecution witnesses;
- (iii) the applicants shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 2.11.2023
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