

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12516 of 2023

Applicant :- Gokul Prasad And Another

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

Counsel for Applicant :- Farooq Ayoob, Km. Pooja Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Counter affidavit filed on behalf of the State, is taken on record.
2. Heard learned counsel for the applicants and Sri Diwakar Singh, learned A.G.A. for the State.
3. The present bail application has been filed by the applicants with a prayer to enlarge them on bail in Case Crime No.246 of 2023 under sections 147, 148, 149, 323, 324, 325, 504, 506 and 304 IPC Police Station Kothi District Barabanki.
4. It has been submitted by learned counsel for the applicants that the identical role assigned to co-accused Dullan and Lal Ji, Lavkush, Jagdeesh and Manoj have been granted bail by coordinate Bench this Court vide order dated 23.11.2023, 17.11.2023 and 06.11.2023 passed in Criminal Misc. Bail Application Nos. 13814 of 2023, 13443 of 2023 and 12423 of 2023 respectively. He also submitted that the case of the applicants is at par with the aforesaid co-accused persons thus, the applicants may also be granted bail on the ground of parity. Learned counsel for the applicants has submitted that he is pressing the same argument which has been pressed in the case of co-accused persons, who have been granted bail by this Court. The applicants have no previous criminal history and there is no possibility of fleeing away from the judicial process or tempering with the witnesses and in case, the applicants are enlarged on bail, they shall not misuse the liberty of bail. The applicants are in jail since 24.06.2023.
5. Learned A.G.A. though opposed the prayer for bail but could not dispute the fact that the co-accused having similar role have been granted bail by this Court.
6. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the argument that the case of the applicants is at par with the co-accused Dullan and Lal Ji, Lavkush, Jagdeesh and Manoj, who have already granted bail by this Court, therefore, I am of the opinion that the applicants are entitled to be released on bail on the ground of parity.
7. Let the applicants, namely, **Gokul Prasad and Awadhesh**, be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuse the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 applicants are 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 them in accordance with law.

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

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