

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12564 of 2023

Applicant :- Rehan

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

Counsel for Applicant :- Prateek Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard learned counsel for the applicant, the learned A.G.A. for the State and perused the record.

2. The instant bail application has been filed on behalf of the applicant with a prayer to release the applicant on bail during the trial in Case Crime No. 145 of 2022, under Sections 379/411 IPC & 3/5/8 UP Cow Slaughter Act- 1955, P.S.- Gosaiganj, District - Lucknow.

3. It is contended by learned counsel for the applicant that the applicant is innocent and he has been falsely implicated in the present case due to ulterior motive. He next added that applicant was not arrested on spot and he was arrested after four days of the said incident. He added that there is no cogent piece of evidence so as to connect him in the instant matter. He next added that charge sheet has been filed and there is no possibility of fleeing away or tempering the evidence. He further submits that criminal history of the applicant has been explained in para 14 of the bail application. The applicant is in jail since 30.03.2022. In case he is granted bail, he will not misuse the liberty and would cooperate in the trial proceedings. Co-accused Tabban has been granted bail by means of the order dated 19.11.2022 passed in CRIMINAL MISC. BAIL APPLICATION No. - 10669 of 2022.

4. Per contra, learned A.G.A. opposed the prayer of bail and submits that there are serious allegation against the applicant and there are four cases criminal history of the applicant and, as such, he is not entitled for bail.

5. Having heard the learned counsel for the parties and after perusal of record, it is evident that present applicant was not arrested on spot and he was arrested after four days of the said incident; further criminal history of the applicant has been explained aforesaid, coupled with the fact that he is languishing in jail since 30.03.2022, thus without commenting on the merits of the case, I find it a fit case for bail.

6. Let the **applicant- Rehan** involved in the aforementioned crime be released on bail, on his furnishing a personal bond and two sureties

each in the like amount, to the satisfaction of the court concerned, with the following conditions:-

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

(2) 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. He 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;

(3) 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.; and

(4) 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, the trial court shall initiate proceedings against him, in accordance with law under Section 174-A of the Indian Penal Code.

7. The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to prison.

8. It is clarified that the observations made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the merits of the case.

(Subhash Vidyarthi, J.)

Order Date :- 19.10.2023

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