

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15152 of 2022

Applicant :- Sultan

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

Counsel for Applicant :- O.P. Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri O.P. Tiwari, learned counsel for the applicant and learned A.G.A. for the State.
2. Supplementary affidavit filed on behalf of the applicant is taken on record.
3. This bail application has been filed by the applicant seeking bail in Case Crime No.122 of 2022 under sections 379 I.P.C. and Section 3/5/8 of Cow Slaughter Act, P.S.- Asoha, District- Unnao.
4. As per the version in F.I.R., some unknown persons took away five oxen who were tethered in front of the houses of first informant and several other persons. Those unknown persons illegally slaughtered them and took away beef. The remains of slaughtered animals were found in the agricultural field of one Kuldeep. As per the prosecution story, this incident occurred on 08.07.2022. Next day, on 09.07.2022, two persons, the co-accused namely Altaf and the instant applicant Sultan, were apprehended when they were going on a loader. From their possession, five quintal of beef, five severed heads, knives, banka and some firearms were recovered. They admitted before the police that they were indulged in this incident of theft of cattle and their slaughter.
5. It is contended on behalf of the applicant that the prosecution could not demonstrate that the slaughtered animals were the same which were stolen from the place of occurrence. No offence under section 379 I.P.C. is made out. It is further contended that he has been implicated falsely as is amply shown by the incredulity of the story as given in the recovery memo. The applicant is in custody since 09.07.2022 i.e. more than a year now. As far as criminal history of the applicant is concerned, the same has been explained in para-3 of the supplementary affidavit. The applicant has been enlarged on bail in all the cases cited as his previous criminal history.
6. Application for bail is opposed by the learned A.G.A., however, it is conceded that applicant is in custody since more than a year and it cannot be said with certainty that how long will it take for trial to conclude.
7. I considered nature of the allegations, role ascribed to the applicant, the evidence proposed, the severity of punishment, period of detention, previous criminal antecedents and all other attending facts and circumstances of the case. In my view, a case for bail is made out..
8. Let applicant - **Sultan** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of

the like amount to the satisfaction of the court concerned subject to following conditions:-

- (i) The applicant shall not temper with evidence/witnesses.
- (ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.
- (iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.
- (iv) It is further provided that before issuing the release order, present as well as permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

9. Any violation of above conditions will be treated as misuse of bail and learned Court below will be at liberty to pass appropriate order.

10. 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 :- 24.11.2023

Sumit Kumar