

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13460 of 2023

Applicant :- Surendra Kumar (In Fir Surendra @ Kaknoo)

Opposite Party :- State Of U.P. Thru. Prin. Secy. Deptt. Of Home Lko And 3 Others

Counsel for Applicant :- Maya Ram Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant and Sri Avishesh Kumar Singh, learned A.G.A. for the State.

2. Notice to O.P. No.2 has been served but none is present on behalf of O.P. No.2.

3. Counter affidavit filed today on behalf of the State by the learned AGA is taken on record.

4. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in FIR No.0138 of 2023 under Section 376-D/354 (B)/506 IPC and Section 5/6 of POCSO Act, PS Khodare district Gonda.

5. It has been submitted by learned counsel for the applicant that co-accused Kapil Dev alias Bhai Lal has been granted bail by this Court in Crl. Misc. Bail Application No.11514 of 2023 on 24.11.2023 and co-accused Mahnthe alias Ram Janam has been granted bail by this Court in Crl. Misc. Bail Application No.11586 of 2023 on 24.11.2023, copies of bail orders have been annexed as Annexure No.SA-1 to the supplementary affidavit dated 28.11.2023. He has submitted that identical role has been assigned to the applicant and his case is at par with the case of the co-accused who have been granted bail. He has further submitted that he is pressing the grounds as have been advanced in the case of the co-accused. who have been granted bail. He has submitted that the applicant has no criminal history and he is in Jail since 21.6.2023.

4. On the other hand, learned A.G.A. has opposed the prayer for bail but could not dispute the fact that the case of the applicant is at par with the co-accused who have been granted bail by this Court.

5. Considering over all facts and circumstances of the case, the argument that the case of the applicant is at par with the co-accused who have been granted bail, it is a fit case for bail.

6. Let the applicant, Surendra Kumar be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) 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. 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 applicant 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.

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

(iv) 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. If in the opinion of the trial court absence of the applicant is 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 him in accordance with law.

7. 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 :- 7.12.2023

Rajneesh JR-PS)