

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13581 of 2023

Applicant :- Arsad Ali

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

Counsel for Applicant :- Anil Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

01. Heard Shri Anil Kumar Mishra, learned counsel for applicant, learned A.G.A. for the State and perused the material available on record.

02. The present bail application has been filed by the applicant seeking bail in case crime no. 301 of 2023, under Sections 3/5/8 of the Uttar Pradesh Prevention of Cow Slaughter Act, 1955, Police Station Subeha, District Barabanki.

03. As per the prosecution case, the accused applicant was found involved in a case of illegal cow slaughter. A severed head of cow progeny was found lying at a place. Later on, during the investigation involvement of the applicant was found.

04. It is contended on behalf of the applicant that there is virtually no evidence against the applicant. His name came during the investigation on the basis of statement given by the applicant in another case bearing Case Crime No. 100 of 2023 under Section 8/21 of the N.D.P.S. Act registered at Police Station Kamrauli, District Barabanki. The applicant was arrested on the allegation of possessing contraband and he gave a statement before the police that he was involved in the instant case of illegal cow slaughter. It is contended that prosecution has no other evidence except the above statement elicited from the accused by the police under pressure. Such evidence has no evidentiary value.

05. The application for bail is opposed by learned A.G.A. contending that the applicant is having criminal history of five cases and there are chances that he get involved himself in such cases, once he is released on bail.

06. The contention of the State is countered by the applicant

saying that in all the cases stated as his criminal history, he has already been granted bail and till now he has not misused the liberty so granted.

06. I considered nature of the allegations, role ascribed to the applicant, the evidence proposed, the severity of punishment and all other facts and circumstances of the case. In my view, a case for bail is made out..

07. Let applicant - **Arsad Ali** 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. 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) The applicant shall remain present, before the trial court on the date fixed for (1) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

08. It is made clear that the observation 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 conclusion on the basis of evidence led unaffected by anything in this order.

Order Date :- 17.11.2023

Virendra