

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13814 of 2023

Applicant :- Dullan 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. Heard Shri Farooq Ayoob, learned counsel for the applicants, Shri Mohd. Asif Khan, learned AGA for the State and perused the record.
2. 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, 304 I.P.C. Police Station Kothi, District Barabanki.
3. Learned counsel for the applicants submitted that the role assigned to the co-accused is the same as has been assigned to the applicants. He submitted that the case of the applicants is at par with co-accused namely Jagdeesh, Manoj Lavkush and Sarojini, who have been granted bail by this Court in Criminal Misc. Bail Application Nos.12423 of 2023 on 06.11.2023, 13443 of 2023 on 17.11.2023 and 10657 of 2023 on 25.08.2023.
4. It is submitted that the applicants have adopted the same arguments and grounds which were argued in the case of co-accused Jagdeesh, Manoj, Lavkush and Sarojini as such the applicants are also entitled to be enlarged on bail on the ground of parity. The applicants have no criminal history and are in jail since 27.06.2023.
5. Learned AGA opposed the prayer for bail but could not dispute the fact that co-accused Jagdeesh, Manoj, Lavkush and Sarojini having identical 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 to the argument that the case of the applicants is coming within the purview of parity as the co accused Jagdeesh, Manoj, Lavkush and Sarojini having similar role have already been granted bail, as such the applicants are also entitled to be released on bail on the ground of parity.
7. Let the applicants **Dullan and Lal Ji** 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 him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuses 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 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 them in accordance with law.

8. 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 :- 23.11.2023

Pks