Court No. - 27
Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14258 of 2023
Applicant :- Kamlesh
Opposite Party :- State Of U.P., Thru. The Prin. Secy., Home Deptt., Lko.
Counsel for Applicant :- Niraj Singh
Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Shri Niraj Singh, learned counsel for the applicant, Shri G.D. Bhatt, learned AGA for the State and perused the record.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.259 of 2023, under Sections 147, 149, 308, 323, 304, 506 I.P.C. Police Station Rampur Mathura, District Sitapur.

3. Learned counsel for the applicant submitted that the case of the applicant is at par with co-accused namely Shubham Singh and Shyamu who have been granted bail by this Court in Criminal Misc. Bail Application No.12910 of 2023 on 02.11.2023 and 14255 of 2023 on 05.12.2023 respectively. It is submitted that the applicant is adopting the same arguments and grounds which were argued in the case of co-accused Shubham Singh and Shyamu as such the applicant is also entitled to be enlarged on bail on the ground of parity. The applicant has no criminal history and is in jail since 22.08.2023.

4. Learned AGA opposed the prayer for bail but could not dispute the fact that co-accused Shubham Singh has been granted bail by this court.

5. 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 applicant is coming within the purview of parity as the co accused Shubham Singh and Shyamu having similar role has already been granted bail, as such the applicant is also entitled to be released on bail on the ground of parity.

6. Let the applicant **Kamlesh** 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 :- 5.12.2023
Pks

Digitally signed by :-
POOJA SETH
High Court of Judicature at Allahabad,
Lucknow Bench