

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14400 of 2023

Applicant :- Shriram And Another

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

Counsel for Applicant :- Shambhunath Mishra, Umesh Chandra Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh, J.

1. Heard Shambhunath Mishra, learned counsel for the applicants, Shri Rajesh Kumar Singh, learned AGA-I for the State and perused the record.
2. The present bail application has been filed by the applicants with a prayer to enlarge him on bail in Case Crime No.128 of 2023, under Sections-147, 148, 149, 323, 504, 506, 452, 352, 427, 325, 304, 308 I.P.C. Police Station Subeha, District Barabanki.
3. It is contended by learned counsel for the applicants that the dying declaration of the deceased was recorded by the police in which it is mentioned that 15 persons caused injuries and general allegations of assault has been levelled in the statement who were armed with stick. The post mortem report indicates that there are three injuries and general role has been assigned in the FIR against 12 persons. He further contended that co-accused Paridin, Chhote Lal and Shiv Prasad have been granted bail by this Court in Criminal Misc. Bail Application Nos.14104 of 2023, 13598 of 2023 and 14678 of 2023 vide orders dated 30.11.2023, 18.11.2023 and 13.12.2023 and the case of the applicants are at par with the case of co-accused. The applicants have no criminal history and are in jail since 24.04.2023.
4. Learned AGA opposed the prayer for bail but could not dispute the fact that other co-accused have been granted bail by this Court and the role of the applicants is at par with the case of co-accused.
5. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and considering that case of the applicants is at par with the other co-accused and argument that same role has been assigned to the applicants, I find it to be a fit case for bail.
6. Let the applicants, **Shiram, Arun @ Arun Kumar** 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.

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 :- 15.12.2023

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