Court No. - 16
Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12952 of 2024
Applicant :- Nanke
Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home
Counsel for Applicant :- Arvind Kumar Tiwari
Counsel for Opposite Party :- G.A.

Hon'ble Karunesh Singh Pawar,J.

Heard learned counsel for the applicant, learned AGA for the State and perused the record.

Learned counsel for the applicant submits that the applicant is innocent. FIR has been lodged after a delay of six days. The applicant is not named in the FIR. From the joint possession of the accused persons, 10 alleged stolen goats have been recovered. The recovery is false. There is no independent witness of the alleged recovery. The applicant has explained his criminal antecedent in para 3 of the supplementary affidavit. The applicant is languishing in jail since 06.11.2024.

Learned counsel for the applicant submits that co-accused Awesh who was assigned similar role has been enlarged on bail by this Court vide order dated 03.10.2024 passed in criminal misc. bail application No. 10631 of 2024. Learned counsel for the applicant seeks parity with the order of the co-accused.

It is further submitted that there is no possibility of the applicant of fleeing away after being released from jail or tampering with the witnesses. In case the applicant is enlarged on bail, he shall not misuse the liberty of bail.

Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

On due consideration to the fact that co-accused Awesh has been enlarged on bail; there is independent witness of the recovery; delay in lodging the FIR; the applicant is not named in the FIR; he has explained his criminal antecedents, coupled with the fact that the applicant is languishing in jail since 06.11.2024 and without expressing any opinion on the merits of the case, I find it to be a fit case for enlarging the applicant on bail on the ground of parity.

Accordingly, the bail application is allowed.

Let the applicant ***Nanke*** involved in Case Crime No. 115/2024, under Sections 310(2)/317 of BNS and section 3/25 of Arms Act, Police Station - Maharajganj Tarai, District - Balrampur, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not pressurize/ intimidate the prosecution witness.

(iii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iv) 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.

(v) 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.

(vi) 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.

Order Date :- 16.12.2024
R.C.

Digitally signed by :-
RAM CHANDER YADAV
High Court of Judicature at Allahabad,
Lucknow Bench