

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9218 of 2022

Applicant :- Kamlesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Brijesh Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Ali Zamin,J.

Heard learned counsel for the applicant, learned A.G.A. for the State and perused the material available on record.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.596 of 2021, under Sections 272, 273, 304 I.P.C. and u/s 60(A) Excise Act, Police Station Tajganj, District Agra.

Learned counsel for the applicant submits that co-accused Sanuj Bansal has been granted bail by a co-ordinate Bench of this Hon'ble Court, vide order dated 28.3.2022 in Criminal Misc.Anticipatory Bail Application No.46186 of 2021. Applicant's case is at par with the co-accused enlarged on bail, therefore, he claims parity. He next submits that applicant has criminal history of three more cases and in all the cases he has been enlarged on bail which has been explained in paras 14 to 16 of the affidavit filed in support of the bail application. He next submits that applicant has been falsely implicated in the case. He further submits that applicant is languishing in jail since 1.9.2021.

Per contra, learned A.G.A. has opposed the bail but concedes the factual aspects of the matter.

Considering the facts and circumstances of the case as well as submissions made by learned counsel for the parties, enlargement of identically placed co-accused on bail, without expressing any opinion on the merit of the case, the applicant is entitled for bail, let applicant Kamlesh involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two local sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions :-

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

(ii) 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.

(iii) 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.

(iv) 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, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(v) 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.

Order Date :- 31.5.2022

m.a.