

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 1162 of 2023

Applicant :- Toni Shergil @ Sharvan Singh

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko.

Counsel for Applicant :- Pankaj Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

Heard learned counsel for the applicant and learned A.G.A. for the State.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No. 672 of 2022 under Sections 302,201,364,120B IPC, Police Station Kotwali Nagar, District Gonda.

It has been submitted by learned counsel for the applicant that the incident took place on 27.09.2022 and the F.I.R. was lodged on 29.09.2022 and the applicant is not named in the F.I.R. He has submitted that co-accused Kawal Singh and the applicant were arrested and at the time of arrest the confessional statement of Kawal Singh was recorded wherein it has been admitted by him that accused applicant help him to flee away from the place of occurrence. It has been submitted that no role of assault has been assigned and also no other role has been assigned to the applicant to infer that the applicant has committed crime and against the main accused Kawal Singh allegation of assault has been levelled. Learned counsel for the applicant has submitted that the applicant has no previous criminal history and there is no possibility of fleeing away from the judicial process or tempering with the witnesses and in case, the applicant is enlarged on bail, he shall not misuse the liberty of bail. The applicant is in jail since 04.10.2022.

Learned A.G.A. has opposed the prayer for bail and submitted that the applicant has supported the co-accused- Kawal Singh to flee away from the place of occurrence, therefore the bail application of the applicant is liable to be rejected.

Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and

looking into overall facts and circumstances of the case as well as the fact that no role has been assigned to the applicant, I find it a fit case for bail

Let the applicant, namely, **Toni Shergil @ Sharvan Singh**, 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.

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 :- 31.3.2023/dk