

Court No. - 93

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50808 of 2022

Applicant :- Raheem

Opposite Party :- State of U.P.

Counsel for Applicant :- Dileep Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Surendra Singh-I,J.

Copy of the order dated 15.09.2022 relating to co-accused, Aasif, passed by another coordinate Bench of this Court in Criminal Misc. Bail Application No. 35222 of 2022 has been produced by the learned counsel for the applicant in the Court today which is taken on record.

Heard Sri Dileep Singh Yadav, learned counsel for the applicant, Sri Laxman Prasad, learned A.G.A. for the State and perused the material on record.

The instant bail application has been filed on behalf of the applicant, **Raheem**, with a prayer to release him on bail in Case Crime No. 188 of 2022, under Sections 153, 153A, 295, 295A, 120-B, 34 I.P.C. and Section 3/5/8 of U.P. Prevention of Cow Slaughter Act, Police Station- Talgram, District-Kannauj, during pendency of trial.

There is allegation in the first information report dated 16.07.2022 lodged by informant, Ram Prakash, Sub-Inspector, against unknown person that on 16.07.2022, he was conducting routine checking of vehicles and when he reached at village- Rasulabad *Tiraha*, then some persons told that in the Shiv Temple situate near the *tiraha*, some unknown person had put the remains of a dead cow progeny to hurt the religious sentiments of the public. The persons present there informed that the temple has been washed after removing the aforesaid remains of the animal.

Learned counsel for the applicant has submitted that the applicant is innocent and he has been falsely implicated in the present case. It is next submitted that the applicant was neither named in

the first information report nor arrested from the spot. On the information furnished by the informer, the police party of the concerned police station on 17.7.2022 arrested five accused persons including the applicant, Raheem, allegedly on their pointing out, equipment of slaughtering the cow as *gandasa* and wooden plank was recovered. Co-accused persons, namely, Aasif and Iliyaas have already been enlarged on bail by coordinate Benches of this Court by orders dated 15.09.2022 and 08.09.2022 passed in Criminal Misc. Bail Application Nos. 35222 of 2022 and 35858 of 2022 respectively. The applicant is languishing in jail since 17.07.2022 and has no criminal history to his credit. In case the applicant is released on bail, he will not misuse the liberty.

Per contra learned A.G.A. has opposed the bail prayer of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence. However, he has not denied the submissions made on behalf of the applicant.

Considering the material/evidence brought on record, the submissions made by the learned counsel for the parties, the nature of allegations, the gravity of offence, larger mandate of Article 21 of the Constitution of India, as well as the dictum of Apex Court in the case of **Dataram Singh Vs. State of U.P. and another** reported in **(2018) 3 SCC 22**, let the applicant involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of the court concerned, subject to the following conditions :-

1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.
2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.
3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

4. 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;

5. In case, the applicant misuses the liberty of bail 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.

6. 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 default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

In case, of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 14.11.2022

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