

**Court No. - 72**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 48222 of 2021

**Applicant :-** Saleem Alias Kaliya

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Rakesh Pati Tiwari

**Counsel for Opposite Party :-** G.A.

**Hon'ble Shekhar Kumar Yadav,J.**

This is a second bail application of the applicant. The first bail application has been rejected vide order dated 23.09.2021 passed by this Court in Criminal Misc. Bail Application No.35243 of 2021.

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

This application has been filed seeking the release of the applicant on bail in Case Crime No.412 of 2021, under Sections 379 IPC and Section 3/8 U.P. Prevention of Cow Slaughter Act, 1955 at Police Station Bhojipura, District Bareilly.

Submission of counsel for the applicant is that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. The applicant is not named in the first information report. During investigation, the complicity of the applicant has been shown in the present case on the basis of his confessional statement. After his arrest, two cases has been slapped upon the applicant. Nothing has been recovered from the possession of the applicant. There is no independent eye witness of the recovery. The recovery that has been shown is false and fabricated. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required.

Learned counsel for the applicant has lastly submitted that the the applicant is languishing in jail since 03.08.2021 and in the wake of heavy pendency of cases in the Court, there is no likelihood of any early conclusion of trial, therefore, the applicant may be enlarged on bail.

He has also given an undertaking that in case the applicant is release on bail, the applicant shall deposit Rs.1 lakh in Registered Gaushala at Bareilly and also shall serve at Gaushalal within a period of month.

On the other hand, learned AGA for the State has vehemently opposed the prayer for bail.

After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

Let the applicant-**Saleem Alias Kaliya**, who is involved in aforementioned case crime 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 subject to following conditions. Further, before issuing the release order, the sureties be verified.

**(i) The applicant shall deposit Rs.1 lakh in favour of any one Registered Gaushal of District Bareilly within a month after release. Immediately after release from jail, the applicant shall himself availablet at Gaushalal and seve the cows for a period of one month.**

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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 IPC.

(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., may be issued and if 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 IPC.

(v) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

(vi) The Trial Court may make all possible efforts/endeavour and try to conclude the trial within a period of one year after the release of the applicant.

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

It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

**Order Date :- 2.6.2022**

Ajeet