

Court No. - 28

Case :- BAIL No. - 7811 of 2020

Applicant :- Aasif

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Kumar Tewari

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

Heard learned counsel for the applicant, learned A.G.A. and perused the record.

The present application under Section 439 Cr.P.C. has been filed seeking bail in FIR No.286 of 2020, under Section 379 IPC and Section 3/5/8 of U.P. Prevention of Cow Slaughter Act, Police Station Kursi, District Barabanki.

Allegedly from the possession of the accused-applicant and his brother Amir, 400 Kg beef was recovered with body parts of progeny of cow.

Learned counsel for the accused-applicant submits that co-accused Amir was determined to be juvenile and in appeal, learned Sessions Court has granted bail to him. He further submits that accused-applicant has been falsely implicated in the offence. Accused-applicant and his brother are not in the business of selling meat. He also submits that there is no public witness of the recovery and, even the statement of the owner of Orchard where the recovery was made allegedly from the possession of the accused-applicant, has not been recorded. He further submits that there is no criminal antecedents of the accused-applicant; he is innocent and, he has been falsely implicated.

On the other hand, Sri Shailendra Tripathi, learned AGA has opposed the prayer for bail and submitted that recovery of 400 Kg beef from the possession of the accused-applicant cannot be said to be a false recovery. The body parts of progeny of cow were also recovered from the possession of the accused-applicant. He further submits that public witnesses usually do not come forward to avoid enmity with the accused and, the accused-applicant should not be enlarged on bail merely on the ground that there is no public witness of the recovery.

I have considered the rival submissions of the parties and perused the record of the bail application.

The accused-applicant is in jail since 1.9.2020 and admittedly he has no criminal antecedents except for this case. His brother who has been determined to be juvenile, has already been granted bail by the sessions court.

Considering the above facts and circumstances of the case, coupled with the contentions raised by the learned counsel for both sides, and without entering into the merit of the case, the applicant is entitled to be released on bail.

Let applicant **Aasif** 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 accused-applicant shall deposit Rs.35,000/- in the account of U.P. Gau Sewa Ayog within a period of four weeks from the date of his release and shall submit the receipt of deposition of Rs.35,000/- with the trial court. In case of failure to submit the receipt of deposit with the trial court, his bail shall be treated to have been cancelled automatically and he shall be taken into custody.

(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 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.

(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.

(vi) The party shall file self attested computer generated copy of such order downloaded from the official website of High Court Allahabad.

(vii) The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing.

Order Date :- 5.11.2020

Rao/-