

**Court No. - 64**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 41821 of 2023

**Applicant :-** Dinesh @ Vinesh

**Opposite Party :-** State Of U.P. . And Another

**Counsel for Applicant :-** Avaneesh Kumar Upadhyay, Abhay Pratap Singh

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

**Hon'ble Siddharth, J.**

Heard learned counsel for the applicant and learned AGA for the State.

The instant bail application has been filed on behalf of the applicant, Dinesh @ Vinesh, with a prayer to release him on bail in Case Crime No. 168 of 2022, under Sections 147,148,149,302 IPC Police Station Sakeet, District-Etah, during pendency of trial.

The co-accused, Vijendra, has been enlarged on bail in Criminal Misc. Bail Application No.14055 of 2023. The prayer for release of the applicant on bail on the ground of parity has been made. The applicant is languishing in jail since 23.02.2023.

Learned AGA has opposed the prayer for bail of the applicant.

Considering the fact that the identically placed co-accused has already been released on bail by this Court, without expressing any opinion on the merits of the case and for the reasons disclosed in the order of co-accused, the Court is of the view that it is a fit case for bail.

Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India, considering the dictum of Apex Court in the case of Dataram Singh Vs. State of U.P. and another reported in (2018) 3 SCC 22 and recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021 and considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case and considering the fact that the identically placed co-accused has already been released on bail by this Court, without expressing any opinion on the merits of the case, the Court is of the view that it is a fit case for bail. The bail application is allowed.

Let the applicant involved in the aforesaid 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 with the following conditions that :-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(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 as directed by the Court. 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 misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail 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.

In case of breach of any of the above conditions, the complainant is free to move an application for cancellation of bail before this court.

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

**Order Date :- 6.10.2023**

SS