

Court No. - 86

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50476 of 2022

Applicant :- Saylla Cheick

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Pratap Singh, Shishir Kumar Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Kumar Singh, J.

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

It has been contended by the learned counsel for the applicant that the applicant has been falsely implicated in the present case due to ulterior motive. It is next contended that the co-accused Basil Ofoma has been granted bail by co-ordinate Bench of this Court vide order dated 02.01.2023 in Criminal Misc. Bail Application No.44444 of 2022, therefore, the applicant is also entitled for bail on the ground of parity. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused has also been touched upon at length. 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. It has also been submitted that the applicant is languishing in jail since 16.01.2022. It has been pointed out that the applicant has no criminal history.

Learned A.G.A. opposed the prayer for bail.

Considering the nature of accusation and severity of punishment in case of conviction, nature of supporting evidence, reasonable apprehension of tempering of witnesses and other relevant aspects, without expressing any opinion on merits of the case, I think it appropriate to release applicant on bail.

Let the applicant **Saylla Cheick** involved in Case Crime No.977 of 2021, under Sections 419, 420, 467, 468, 471 I.P.C. and Section 66-D of the Information Technology Act, Police Station Sector 39, District Gautam Budh Nagar be released on bail on his furnishing

a personal bond with two sureties each in the like amount to the satisfaction of the 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.

In case of breach of any of the above conditions, the trial court will be at liberty to cancel the bail.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 15.3.2023

Jitendra