

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20620 of 2023

Applicant :- Manoj

Opposite Party :- State of U.P.

Counsel for Applicant :- Satya Dheer Singh Jadaun

Counsel for Opposite Party :- G.A.,Kameshwar Singh

Hon'ble Sameer Jain,J.

1. Heard Sri S.D. Singh Jadaun, learned counsel for the applicant, Sri Kameshwar Singh, learned counsel for the informant and Dr. S.B. Maurya, learned AGA-I for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 257 of 2022, S.T. No. 1595 of 2022, under Sections 147, 307, 323, 326, 504, 506 IPC, Police Station Maharajpur, District Kanpur Nagar during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court vide order dated 16.01.2023 passed in Criminal Misc. Bail Application No. 56488 of 2022 and he is pressing the instant second bail application on the ground that after rejection of first bail application of the applicant, co-accused Raju and Kala @ Shubahm have been released on bail by the co-ordinate Bench of this Court vide order dated 04.04.2023 passed in Criminal Misc. Bail Application No. 57675 of 2022 and from the statement of the injured, the case of applicant is at par with them. The bail order of co-accused Raju and Kala @ Shubahm has been annexed along with instant bail application.

4. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 13.07.2022 i.e. for more than a year, therefore, he may be released on bail.

5. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the fact that after rejection of first bail application of the applicant, two co-

accused Raju and Kala @ Shubahm have already been enlarged on bail by the co-ordinate Bench of this Court and as per statement of the injured, the case of applicant is at par with them. He further could not dispute the fact that applicant is not having any criminal history and in the present matter he is in jail since 13.07.2022 i.e. for more than a year.

6. I have heard learned counsel for the parties and perused the record of the case.

7. Although, this is second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court on merit but it appears that after rejection of first bail application of the applicant, two co-accused Raju and Kala @ Shubahm has been released on bail by the co-ordinate Bench of this Court vide order dated 04.04.2023 passed in Criminal Misc. Bail Application No. 57675 of 2022 and their bail order has been annexed as Annexure-3 to the instant second bail application and from perusal of the statement of the injured, which was produced by learned AGA during the course of argument, it appears that he also disclosed the name of co-accused Raju and Kala @ Shubahm along with other persons, therefore, from the statement of the injured, it appears that case of applicant is at par with them and both have already been released on bail.

8. Further, applicant is not having any criminal history and in the present matter he is in jail since 13.07.2022 i.e. for more than a year.

9. The Apex Court in the case of **Satender Kumar Antil Vs. Central Bureau of Investigation and others MANU/SC/0851/2022** observed that while deciding the bail application, the Courts must consider the Article 14 and 15 of the Constitution of India and all the accused persons should be treated equally.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

11. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

12. Let the applicant - **Manoj** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the

following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

13. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

14. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 30.10.2023

AK Pandey