

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 30223 of 2023

Applicant :- Mohammad @ Raju

Opposite Party :- State of U.P.

Counsel for Applicant :- Vipul Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Vipul Kumar Singh, learned counsel for the applicant 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. 225 of 2022, under Sections 323, 324, 504, 307 IPC, Police Station Dadri, District Gautam Budh 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 21.02.2023 passed in Criminal Misc. Bail Application No. 4160 of 2023 and he is pressing the instant second bail application on the ground that on 24.05.2023 i.e. after rejection of first bail application of the applicant, co-accused Aaship @ Asif has been released on bail by the co-ordinate Bench of this Court and case of applicant is at par with him, therefore, on the ground of parity, applicant should also be enlarged on bail.

4. Per contra, learned AGA opposed the prayer for bail and submitted that from perusal of bail order of co-accused dated 24.05.2023 it appears that bail was not granted to him on merit rather it was granted on the ground that trial of the case is moving with languid pace and till 24.05.2023 even charges could not be framed but this is second bail application and while dismissing the first bail application, this Court considered the merit of the case at length. He further pointed out that as bail granting order was of the month of May, 2023 and since then almost five months have been

passed, therefore, no benefit can be extended to the applicant, therefore, instant second bail application is liable to be dismissed.

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

6. This is second bail application filed on behalf of the applicant and it appears that after rejection of first bail application of the applicant, bail application of co-accused Aaship @ Asif was allowed by the co-ordinate Bench of this Court on the ground that till 24.05.2023 charges could not be framed and he was not responsible for delay in trial but in case at hand, there is no material on record, which can show that applicant is not responsible for delay. Further, on query, learned counsel for the applicant could not even apprise that whether till date charges could be framed or not, therefore, no benefit can be extended to the applicant on the basis of bail order of co-accused.

7. Further, from the perusal of the first bail order, it appears that injured sustained knife injuries and knife was used in such force which stuck in the abdomen of the injured, which could not be came out in spite of applying force, therefore, allegations made against the applicant are serious in nature.

8. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

9. Accordingly, the instant bail application is rejected.

10. 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 :- 18.10.2023

AK Pandey