

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35328 of 2023

Applicant :- Vikash Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Prateek Srivastava, Harishchandra Dubey, Vikrant Pratap Singh, Vishvajeet Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Harishchandra Dubey, learned counsel for the applicant and Sri Suresh Bahadur Singh, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 02 of 2023, under Sections 3, 5, 7, 25(8) Arms Act, Police Station Kotwali Hata, District Kushinagar 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 01.03.2023 passed in Criminal Misc. Bail Application No. 5586 of 2023 and he is pressing the instant second bail application on the ground that after rejection of first bail application of the applicant, bail application of co-accused Veer Bahadur Yadav has been allowed by the co-ordinate Bench of this Court vide order dated 27.07.2023 passed in Criminal Misc. Bail Application No. 8910 of 2023 and case of applicant is at par with him as both were arrested simultaneously, therefore, on the ground of parity, applicant may be enlarged on bail.
4. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that after rejection of first bail application of the applicant, bail application of co-accused Veer Bahadur Yadav has been allowed by the co-ordinate Bench of this Court and case of applicant is at par with him.
5. I have heard learned counsel for the parties and perused the record of the case.
6. However, 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 01.03.2023 passed in Criminal Misc. Bail Application No. 5586 of 2023 but it appears that on 27.07.2023 i.e. after rejection of first bail application of the applicant, co-accused Veer Bahadur Yadav has been released on bail by the co-ordinate Bench of this Court and applicant and co-accused Veer Bahadur Yadav both alleged to have been arrested simultaneously, therefore, case of applicant is at par with him.

7. The Apex Court in the case of **Satender Kumar Antil Vs. Central Breau of Investigation and another (2022) 10 SCC 51** in paragraph-98 observed that while deciding the bail application, the Courts should also consider the fact that all the accused persons should be treated equally.

8. Therefore, in view of the observation made by the Apex Court in the case of **Satender Kumar Antil (supra)** and considering the fact that co-accused Veer Bahadur Yadav has already been released on bail by the co-ordinate Bench of this Court, in my view, applicant is also entitled to be released on bail.

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

10. Let the applicant - **Vikash Singh** 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.

11. 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.

12. 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 :- 8.11.2023

AK Pandey