

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36249 of 2023

Applicant :- Ashfak

Opposite Party :- State of U.P.

Counsel for Applicant :- A.C.Srivastava, Vinod Kumar Tripathi

Counsel for Opposite Party :- G.A., Ambreen Masroor

Hon'ble Mayank Kumar Jain, J.

Heard learned counsel for the applicant, learned A.G.A. for the State and learned counsel for the informant and perused the entire record.

The present third bail application has been filed on behalf of applicant in Case Crime No. 93 of 2017, under Sections 147, 148, 149, 302, 307, 326, 504, 506 & 34 of IPC, Police Station Kharkhauda, District Meerut with the prayer to enlarge the applicant on bail.

The contention as raised at the bar by learned counsel for the applicant is that applicant accused has been falsely implicated in the present case. It is submitted that the first information report was lodged against 15 person. It is submitted that general role has been assigned to all named persons except accused Abid and Javed. Specific role is not assigned to the present appellant. It is also submitted that first bail application was not considered on merit while it was dismissed merely on the ground that bail of co-accused Imran was cancelled by Hon'ble Supreme Court. The second bail application of the applicant was dismissed as withdrawn. It is submitted that Imran, Amir, Bhura, Rohit, Naushad, Rehan, Gulfam, Irfan have been granted bail by co-ordinate Bench of this Court, copies of which are placed before this Court which are taken on record. He further submits that since the role of the applicant is identical to that of the co-accused who have already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity. Learned counsel for the applicant lastly submits that the applicant is in jail since 16.05.2017 having no criminal history and that in case applicant is enlarged on bail, the applicant will not misuse the liberty of bail.

The prayer for bail has been vehemently opposed by learned

A.G.A. However, he does not dispute the fact that the similarly placed co-accused have been granted bail by this Court.

Considering the submissions made by learned counsel for the applicant as well as learned A. G. A. and the fact that identically placed co-accused have already been enlarged on bail, without expressing any opinion on the merits of the case, at this stage, prima facie, a case for bail has been made out.

The prayer for bail is granted. The application is allowed.

Let the applicant **Ashfak** in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). The applicant shall not directly or indirectly make any 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 to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

Order Date :- 28.10.2023

Mohit