

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48226 of 2023

Applicant :- Shakir

Opposite Party :- State of U.P.

Counsel for Applicant :- Manju Pandey, Rinkee Kumari

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Ms. Azmi Beghum holding brief of Ms. Rinkee Kumari, learned counsel for the applicant, learned AGA for the State and perused the record.

2. By means of this bail application, applicant seeks bail in Complaint Case No.288 of 2023, under Section 125(3) CrPC, Police Station Kailadevi, District Sambhal, during the pendency of trial.

3. In this case when the maintenance allowance of Rs.66,000/- was not paid to the wife by the applicant husband and when his close friend told the court that he has no money to pay the maintenance allowance, the court below rejected the bail application of the applicant. According to this Court after the judgment and order passed under Section 125 CrPC an execution application may be filed under Section 125(3) CrPC and for every month of the order a husband or the person is responsible for payment of maintenance allowance may be sent to jail maximum for a period of 30 days at a time. In this case the applicant is in jail since 12.07.2023.

4. Learned counsel appearing for the applicant contends that the applicant would pay the maintenance allowance regularly and arrears also to his wife if he is released on bail. There is no previous criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. It is also contended that in case the applicant is enlarged on bail, he will not misuse the said liberty.

5. The prayer for bail has been vehemently opposed by learned AGA. However, the aforesaid submissions raised by the counsel for the applicant.

6. Considering the facts, circumstances and the submissions made but without commenting on the merits of the case, this

Court is of opinion that the applicant has made out a fit case for bail. Accordingly, the bail application is allowed.

7. Let the applicant - **Shakir**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

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

9. It is expected that the applicant shall pay the maintenance allowance regularly and shall also pay the arrears due against him within a period of one year.

Order Date :- 5.12.2023

Shahroz