

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41324 of 2023

Applicant :- Vali Mohammad

Opposite Party :- State of U.P.

Counsel for Applicant :- S.S. Rajput

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.47 of 1982 (Case No.565 of 2010), under Sections 395, 397 IPC, Police Station Gonda, District Aligarh, during the pendency of trial.

3. From perusal of the record it transpires that with regard to a dacoity committed by some unknown persons, an FIR had been lodged by the aggrieved and an identification parade had been conducted in jail in which according to learned counsel for the applicant only two accused persons Pratham Pal Singh @ Lala and Karua, brother of the applicant-accused were recognized though they have also been acquitted in ST No.315 of 1985 on 03.03.1986 by the ASJ-V, Aligarh on the basis that the identification parade was not properly conducted by the authority. Both the accused persons were already known to the victim and the witnesses. They were residing at a distance of 1km from the house of the informant. However, learned counsel for the applicant contends that the applicant was not identified by the witnesses, therefore, he was exonerated and was released in the year 1982. Though in this regard neither the identification parade report nor any report under Section 169 CrPC has been produced by the applicant.

4. From perusal of the aforesaid judgment dated 03.03.1986, it transpires that the case of accused Karua and Vali Mohammad (both are real brothers) was separated for unknown reasons which are not mentioned in the said judgment. It appears that since they would have absconded, therefore, their case was separated and rest two accused persons were tried and later on acquitted. At present the applicant is aged about 73 years. It is contended that there is no other criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant

is languishing in jail since 21.07.2023. In case the applicant is released on bail, he will not misuse the said liberty.

5. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

7. Let the applicant - **Vali Mohammad**, 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.

Order Date :- 12.10.2023

Shahroz