

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42760 of 2023

Applicant :- Gaurav Yadav And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Pravesh Yadav, Shashank Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Ram Pravesh Yadav, learned counsel for the applicants, Sri S.P. Pandey, learned A.G.A. for the State and perused the material placed on record.
3. Applicants seek bail in Case Crime No.108 of 2023, under Sections 147, 148, 308, 325, 452, 323, 504, 506 and 427 I.P.C., Police Station Chitbaragaon, District Ballia, during the pendency of trial.
4. It is submitted by learned counsel for the applicants that similarly placed co-accused person Raja Yadav @ Rajiv has already been enlarged on bail by Co-ordinate Bench of this Court vide order dated 28.8.2023 passed in Criminal Misc. Bail Application No.36326 of 2023. There is no criminal history of the applicants. The applicants are languishing in jail since 07.08.2023. He further submitted that since the roles of the applicants are identical to that of co-accused who has already been enlarged on bail, they are also entitled to be enlarged on bail on the ground of parity.
5. The prayer for bail has been vehemently opposed by learned A.G.A. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by him.
6. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and in light of the judgement passed by this Court in ***Nanha S/o Nabhan Kha vs. State of U.P., 1993 Cr.L.J. 938*** and the judgement passed by the Apex Court in ***Paras Ram Vishnoi vs. The Director, Central Bureau of Investigation, MANU/SCOR/22410/2021***, without expressing any opinion on the merits of the case, this Court is

of the view that the applicants have made out a case for grant of bail on the ground of parity. The bail application is **allowed** on the ground of parity.

7. Let the applicants- **Gaurav Yadav** and **Abhinandan Yadav**, who are involved in aforementioned case crime be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicants shall file an undertaking to the effect that they shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicants shall remain present before the Trial Court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the Trial Court may proceed against them under Section 229-A IPC.

(iii) In case, the applicants misuses the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C., may be issued and if applicants fail to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against them, in accordance with law, under Section 174-A IPC.

(iv) The applicants shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicants is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against them in accordance with law.

8. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

9. It is made clear that observations made in granting bail to the applicants shall not in any way affect the learned trial Judge in forming their independent opinion based on the testimony of the witnesses.

Order Date :- 16.10.2023
Ravi Kant

(Krishan Pahal, J.)