

Court No. - 66

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43077 of 2023

Applicant :- Mukesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shiv Mangal Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Ajay Bhanot,J.

By means of the the bail application the applicant has prayed to be enlarged on bail in Case Crime No. 150 of 2023 at Police Station- Dholna, District- Kasganj, under Sections 195, 211, 302, 34 IPC and Section 3/25/27 Arms Act. The applicant is in jail since 08.06.2023.

The bail application of the applicant was rejected by the learned trial court on 19.08.2023.

The following arguments made by Shri Shiv Mangal Pandey, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by Shri Shravan Kumar Dubey, learned AGA from the record, entitle the applicant for grant of bail:

1. The applicant was not named in the FIR.
2. The applicant was nominated in the statement of a co-accused made before the police authorities. The said statement in so far as they implicate the applicant are inadmissible in evidence.
3. There is no direct evidence against the applicant.
4. At best, this is a case of circumstantial evidence. The chain of incriminating circumstances against the applicant is not complete.

5. One country made pistol was planted on the applicant to burnish the credentials of the police authorities.
6. There is no independent witness to the recovery and ballistic report which links the weapon with the applicant has also not been produced by the police authorities.
7. Prosecution evidence does not connect the applicant with the offence.
8. The applicant claims congruency in role and seeks parity in relief granted to the co-accused person Jitendra Kumar who has been enlarged on bail by this Court by order dated 07.08.2023 in Criminal Misc. Bail Application No. 34367 of 2023.
9. The applicant has explained his criminal history. Learned AGA contends that the applicant has a criminal history of one more case. Rejoining this issue, learned counsel for the applicant contends that the applicant is in jail. He does not have an effective pairkar. Hence, details of the case could not be obtained and stated in the bail application. However, relying on the records available with the learned AGA and the instructions received from his client, learned counsel for the applicant submits that the applicant was falsely nominated in the said case. The said case does not depict commission of heinous crime and have no bearing on the instant bail application.
10. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and

undertakes to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- **Mukesh** be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence or influence any witness during the trial.

(ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

Order Date :- 18.10.2023
Vandit