

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44686 of 2023

Applicant :- Mohd. Bin Kasim

Opposite Party :- State of U.P.

Counsel for Applicant :- Shadab Ali

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.
2. As per first information report, two named accused persons stoped the motorcylce of the informant and snatched certain things by showing country made pistol. Subsequently, the said two persons were apprehended and the alleged recovery was made from them.
3. Learned counsel for the applicant submits that the recovery which is said to have been made from the joint possession of the applicant and other co-accused. There is no independent witness of the alleged recovery and the recovery is not in terms of Section 100 Cr.PC. The criminal history has been duly explained in paragraph 27 of the affidavit accompanying bail application. The applicant is in jail since 25.8.2023, is entitled to be enlarged on bail.
4. Learned AGA has opposed the bail application.
5. Considering the fact that recovery was not made in the presence of independent witness, considering the fact that the co-accused has been enlarged on bail, the applicant is entitled to be enlarged on bail on the ground of parity. In view thereof, the application is allowed.
6. Let the applicant **Mohd. Bin Kasim** be released on bail in FIR No. 234 of 2023, under Sections 341, 394, 411 I.P.C. and section 4/25 Arms Act, P.S. Mundhapandey, district-Moradabad, on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:
 - (a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) 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 or to any police officer or tamper with the evidence.

Order Date :- 7.11.2023

Faridul