

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46213 of 2023

Applicant :- Mahesh @ Laddan

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjeev Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Sanjeev Kumar, learned counsel for the applicant and Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the record.

3. This is the second bail application moved on behalf of the applicant seeking bail in Case Crime No. 454 of 2017, under Sections 302, 201, 394, 411 of I.P.C., Police Station Ekdil, District Etawah, during the pendency of trial. His first bail application was dismissed for want of prosecution and having been rendered infructuous by this Court vide order dated 27.03.2023 passed in Criminal Misc. Bail Application No.30001 of 2018.

4. It is submitted by learned counsel for the applicant that he has been falsely implicated in the present case. The present case is based on circumstantial evidence and there is no evidence against the applicant except the statement of the co-accused person which is not admissible in evidence. Learned counsel has further stated that a false recovery of four sarees and Rs.2000/- has been foisted on the applicant. Similarly placed co-accused person, Dilip has already been enlarged on bail by another Bench of this Court vide order dated 23.03.2023 passed in Criminal Misc. Bail Application No. 37595 of 2021. He further submitted that since the case of the applicant is on a better footing to the case of co-accused, who has already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity.

5. Learned counsel for the applicant has further stated that no prosecution witnesses have been examined to date, as such, his fundamental right enshrined under Article 21 of the Constitution of India stand violated. Learned counsel has also placed reliance upon the judgement of Apex Court passed in **Union of India vs. K.A. Najeeb AIR 2021 SUPREME COURT 712** and it has been held as follows:-

"We are conscious of the fact that the charges levelled against the respondent are grave and a serious threat to societal harmony. Had it been a case at the threshold, we would have outrightly turned down the respondent's prayer. However, keeping in mind the length of the period spent by him in custody and the unlikelihood of the trial being completed anytime soon, the High Court appears to have been left with no other option except to grant bail.

6. Learned counsel for the applicant has further stated that the applicant is languishing in jail since 17.06.2018. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

7. The prayer for bail has been vehemently opposed by learned A.G.A.. However, the aforesaid factual aspect of parity to the co-accused has not been disputed by him.

8. 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*** and also the judgement of ***K.A. Najeel (Supra)***, without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The second bail application is **allowed** on the ground of parity.

9. Let the applicant- **Mahesh @ Laddan**, involved in aforementioned case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

- i. The applicant will not tamper with the evidence during the trial.
- ii. The applicant will not pressurize/ intimidate the prosecution witness.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
- iv. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
- v. 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.

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

11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 20.11.2023
Siddhant