

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45113 of 2023

Applicant :- Guddu @ Dipanshu

Opposite Party :- State of U.P.

Counsel for Applicant :- Sarvesh Kumar Dubey, Dileep Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain, J.

Supplementary affidavit filed on behalf of applicant is taken on record.

Heard learned counsel for the applicant as well as learned A.G.A. for the State and perused the record.

The present second bail application has been filed on behalf of applicant in Case Crime No. 711 of 2021, under Sections 302, 307, 452, 34 of IPC, Police Station Muradnagar, District Ghaziabad with the prayer to enlarge the applicant on bail. The first bail application of the applicant was rejected by this Court vide order dated 24.01.2023 passed in Criminal Misc. Bail Application No. 53474 of 2022.

It has been argued by learned counsel for the applicant that applicant is innocent, not named in the F.I.R. and he has been falsely implicated in the present case. The name of applicant was disclosed by co-accused Ankit Verma @ Ankit Chautala. It is further submitted that co-accused Ankit Verma @ Ankit Chautala has already been granted bail after the rejection of first bail application of the applicant by this Court vide order dated 19.09.2023 passed in Criminal Misc. Bail Application No. 32674 of 2023. It is further submitted that co-accused Monu who was also taken into custody alongwith the present applicant, granted bail by this Court prior to the rejection of first bail application of the applicant but this ground could not be taken earlier at the time of argument of first bail application of the applicant. It is also submitted that criminal history of the applicant has been explained in para-30 of the affidavit filed in support of bail application. It is further submitted that there is no substantial progress in the trial and applicant is languishing in jail since 01.09.2021 and that in case he is released on bail, he will not misuse the liberty of bail

and will cooperate in trial.

Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail by contending that applicant has criminal history of 14 cases including the present case and a country-made pistol has been recovered from the possession of applicant. However, he could not dispute the aforesaid aspects of the matter as argued by learned counsel for the applicant.

In **Union of India Vs. K.A. Najeed (2021) 3 SCC 713**, the Hon'ble Apex Court has observed that:-

"15. This Court has clarified in numerous judgments that the liberty guaranteed by Part III of the Constitution would cover within its protective ambit not only due procedure and fairness but also access to justice and a speedy trial. In Supreme Court Legal Aid Committee v. Union of India SCC para-15 it was held that undertrials cannot indefinitely be detained pending trial. Ideally, no person ought to suffer adverse consequences of his acts unless the same is established before a neutral arbiter. However, owing to the practicalities of real life where to secure an effective trial and to ameliorate the risk to society in case a potential criminal is left at large pending trial, the Courts are tasked with deciding whether an individual ought to be released pending trial or not. Once it is obvious that a timely trial would not be possible and the accused has suffered incarceration for a significant period of time, Courts would ordinarily be obligated to enlarge them on bail."

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant **Guddu @ Dipanshu** in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). 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 to any police officer or tamper with the evidence.

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

Order Date :- 5.12.2023

AKT