

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47094 of 2023

Applicant :- Pankaj Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinod Kumar Singh, Rajesh Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
3. Heard Sri Rajesh Kumar Singh, learned counsel for the applicant, Sri S.P. Pandey, learned A.G.A. for the State and perused the material placed on record.
4. Applicant seeks bail in Case Crime No.269 of 2023, under Sections 272, 273 I.P.C. and 60 Excise Act, Police Station- Gadwar, District- Ballia, during the pendency of trial.
5. It is submitted by learned counsel for the applicant that similarly placed co-accused persons, Pankaj Yadav and Manoj Yadav have already been enlarged on bail by Co-ordinate Bench of this Court vide orders dated 3.11.2023 and 7.11.2023 passed in Criminal Misc. Bail Application Nos. 46737 of 2023 and 47597 of 2023, respectively. The applicant is languishing in jail since 5.10.2023. He further submitted that since the role of the applicant is identical to that of co-accused who has already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity. Learned counsel for the applicant has further stated that there is a criminal history of fifteen cases assigned to the applicant out of which the applicant is on bail in thirteen cases. .
6. Learned counsel for the applicant has further stated that the said criminal history of the applicant stands explained. In support of his submission, learned counsel for the applicant has placed much reliance upon the judgment of ***Prabhakar Tewari Vs. State of U.P. and another, 2020 (11) SCC 648***, wherein the Apex Court has observed that pendency of several criminal cases against an accused itself cannot be a basis for refusal of

bail, if otherwise his case for bail is made out.

7. 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.

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***, 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 bail application is **allowed** on the ground of parity.

9. Let the applicant- **Pankaj Sharma**, who is involved in aforementioned case crime be released on bail on his 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 applicant shall not tamper with evidence.

(ii) The applicant 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 applicant 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 him in accordance with law.

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

11. 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 based on the testimony of the witnesses.

Order Date :- 24.11.2023

Vikas

[Krishan Pahal, J.]