Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47479 of 2023

Applicant :- Boby
Opposite Party :- State of U.P.
Counsel for Applicant :- Ajay Kumar Vashistha
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard Sri Ajay Kumar Vashistha, learned counsel for the applicant and Sri Anjani Kumar, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No. 362 of 2023, under Sections 394, 412, 34, 171 of I.P.C. and Sections 3/25 of Arms Act, Police Station Kotwali Dehat, District Etah, during the pendency of trial.

4. It is submitted by learned counsel for the applicant that similarly placed co-accused person, Pawan Kumar, has already been enlarged on bail by another Bench of this Court vide order dated 30.10.2023 passed in Criminal Misc. Bail Application No. 43278 of 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. The applicant is languishing in jail since 08.08.2023 having no criminal history. In case, the applicant is released on bail, he will not misuse the liberty of bail and shall cooperate with trial.

5. The prayer for bail has been vehemently opposed by learned A.G.A. However, the aforesaid factual aspects of parity to the co-accused and of no criminal history of the applicant, have not been disputed by him.

6. 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 Crl.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.

7. Let the applicant- **Boby,** 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.

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

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

10. 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 :- 7.11.2023
Siddhant

Digitally signed by :-
SIDDHANT SAHU
High Court of Judicature at Allahabad