

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50823 of 2023

Applicant :- Ravi

Opposite Party :- State of U.P.

Counsel for Applicant :- Gaurav Kakkar

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Gaurav Kakkar, learned counsel for the applicant and Sri Ajai Singh, learned A.G.A.-I for the State and perused the material on record.
3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Ravi, seeking enlargement on bail during trial in S.T. No. 330 of 2019 in connection with Case Crime No. 399 of 2018, under sections 147, 148, 354, 323, 504, 506, 304 I.P.C., Police Station Atrauli, District Aligarh.
4. The applicant alongwith Rajendra, Som Prakash, Pushpendra and Rakesh were named in the F.I.R. which was lodged on 14.08.2018. The investigation in the matter concluded by submitting charge sheet against Som Prakash and Rajendra, whereas, the names of three other persons, namely, Puspendra, the applicant and Rakesh finds place in column 12 of the charge sheet in the persons not charge sheeted. The trial in the matter started in which the applicant, Pushpendra and Rakesh were also named, after which vide order dated 18.08.2022 the trial court summoned the applicant Ravi, Pushpendra and Rakesh under section 319 Cr.P.C. Against the said order, Criminal Revision No. 3720 of 2022 (Rakesh and two others Versus State of U.P.) was filed before this Court which came to be dismissed vider order dated 16.03.2023. The said order was subjected to challenge before the Apex Court in Special Leave Petition (Criminal) Diary No. 27525 of 2023 (Rakesh Kumar and others Versus State of U.P. and

another) which was dismissed vide order dated 31.07.2023.

5. Learned counsel for the applicant argued that the implication of the applicant in the present matter is false. It is argued that during investigation his implication alongwith two other persons, namely, Rakesh and Pushpendra was found to be false and as such they were exonerated in the matter. It is argued that co-accused Rakesh has been granted bail by coordinate Bench of this Court vide order dated 27.10.2023 passed in Criminal Misc. Bail Application No. 45094 of 2023 (Rakesh Versus State of U.P.), copy of the order has been annexed as Annexure 28 of the affidavit. It is further argued that co-accused Pushpendra has been granted bail by the coordinate Bench of this Court vide order dated 20.11.2023 passed in Criminal Misc. Bail Application No. 49078 of 2023 (Pushpendra Versus State of U.P.), copy of the order was produced before this Court which is taken on record. It is argued that the case of the applicant is identical to that of the said two accused persons who have been granted bail. It is further argued that the co-accused Som Prakash the named accused against whom the charge sheet was submitted has also been granted bail by another Bench of this Court, the copy of the order was placed before this Court which is annexed as Annexure 24 to the affidavit. It is further argued that even co-accused Rajendra Kumar named in the F.I.R. and also charge sheeted although is now dead has also been granted bail by another Bench of this vide order dated 18.12.2018 passed in Criminal Misc. Bail Application No. 48238 of 2018 (Rajendra Singh Versus State of U.P.), the said order is placed at page no. 232 to the affidavit. It is argued that the applicant was involved in one other criminal case in which final report has been submitted in his favour. Para 26 of the affidavit has been placed. The applicant is in jail since 18.10.2023.

6. Per contra learned counsel for the State has vehemently opposed the prayer for bail but could not dispute the argument as aforesaid.

7. After hearing the counsel for the parties and perusing the record, it is evident that the applicant although was named in the F.I.R. but was exonerated in the investigation, subsequently, he was summoned under section 319 Cr.P.C. The accused persons who were named in the F.I.R. and were charge sheeted have been granted bail. The two accused persons who were not charge

sheeted alongwith the applicant have also been granted bail by the coordinate Bench of this Court.

8. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

9. Let the applicant-**Ravi**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) 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 and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

10. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

11. The bail application is allowed.

Order Date :- 28.11.2023

K.K. Maurya

(Samit Gopal,J.)