

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49450 of 2023

Applicant :- Shahil Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Kant Tripathi

Counsel for Opposite Party :- G.A., Balram Mishra

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant, Sri Balram Mishra, counsel for the informant and Sri Neeraj Kumar Mishra, learned AGA for the State.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 0757 of 2023, under Sections 498A, 323 & 313 of I.P.C., Section 3/4 of Dowry Prohibition Act and Section 3/5(1) of U.P. Prohibition of Unlawful Religious Conversion Act, Police Station- Kotwali Khalilabad, District- Sant Kabir Nagar during pendency of the trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The applicant is the brother-in-law of the victim. The matter arises out of matrimonial discord between the brother of the applicant and the informant. It is next contended that identically placed co-accused, Narul Hasan Khan, who is the father of the applicant, has been granted bail by this Court vide order dated 28.10.2023. in Criminal Misc. Bail Application No. 40895 of 2023 The applicant claims parity. The applicant is in jail since 26.07.2023, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.
5. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that the matter arises out of matrimonial discord between the brother of the applicant and the informant. The applicant is the brother-in-law of the victim. Identically placed co-accused, Narul Hasan Khan, who is the father of the applicant, has been granted bail by this Court. Further, the applicant has no criminal antecedents and has remained confined for more than four months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if

enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Shahil Khan** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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

Order Date :- 6.12.2023
Sachin Mishra