

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49801 of 2023

Applicant :- Kasif Alias Kida

Opposite Party :- State of U.P.

Counsel for Applicant :- Sushil Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Pankaj Sharma, Advocate holding brief of Sri Sushil Kumar Dubey, learned counsel for the applicant and Sri Sunil Kumar, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 255 of 2023, under Sections 307 & 120-B of I.P.C., Police Station Civil Lines, District Meerut, during the pendency of trial.
4. It is submitted by learned counsel for the applicant that similarly placed co-accused person, Shaif and Jaan, have already been enlarged on bail by another Bench of this Court vide orders dated 16.11.2023 & 22.11.2023 passed in Criminal Misc. Bail Application Nos. 46741 of 2023 & 46409 of 2023, respectively. Learned counsel has further submitted that since the case of the applicant is at par to the 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 has also stated that the name of the applicant has come up in the statement of co-accused Shaif and Jaan, which is not admissible in evidence. The criminal history of 12 cases assigned to the applicant has been explained as he has been enlarged on bail in eight cases and he has yet to apply for bail in four cases. In support of his submission, learned counsel has placed much reliance upon the judgement 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. The applicant is languishing in jail since 24.08.2023. 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 aspect of parity to the co-accused has 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- **Kasif Alias Kida**, 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 :- 30.11.2023
Siddhant