Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50289 of 2023

Applicant :- Amir
Opposite Party :- State of U.P.
Counsel for Applicant :- Raj Kamal
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard Sri Mahendra Kumar, learned Advocate holding brief for Sri Raj Kamal, learned counsel for the applicant and Sri R.P. Patel, learned A.G.A. for the State and perused the material placed on record.

2. Applicant seeks bail in Case Crime No. 202 of 2023, U/S 395, 397, 120-B, 34 IPC and u/s 3/5A/8 of Cow Slaughter Act, Police Station Kotwali Dehat, District Etah, during the pendency of trial.

3. It is submitted by learned counsel for the applicant that similarly placed co-accused person, Rinku Singh has already been enlarged on bail by this Court vide order dated 18.8.2023 passed in Criminal Misc. Bail Application No. 33694 of 2023. The applicant is languishing in jail since 22.8.2023 having criminal history of one case, which stands explained. The applicant is not a previous convict. 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.

4. 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**.**

5. 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 applicants have made out a case for bail. The bail application is **allowed** on the ground of parity.

6. Considering the submissions made by learned counsel for the parties, this Court is of the view that the applicant has made out a case for grant of bail on the ground of parity.

7. Without expressing any opinion on the merits, the bail application is allowed. Let the applicant- **Amir** who is involved in aforementioned case crime number 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.

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

9. 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.

(Justice Krishan Pahal)

Order Date :- 2.12.2023
Shalini

Digitally signed by :-
SHALINI JAISWAL
High Court of Judicature at Allahabad