

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50230 of 2023

Applicant :- Harendra Singh And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Bal Mukund Singh, Surya Dev

Counsel for Opposite Party :- G.A., Sanjeev Kumar Shukla

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Bal Mukund Singh, learned counsel for the applicants, Sri Sanjeev Kumar Shukla, learned counsel for the informant as well as Sri Yogesh Mishra, learned A.G.A. for the State and perused the material placed on record.
3. Applicants seek bail in Case Crime No.102 of 2023, under Sections 419, 420, 467, 468, 471, 120-B I.P.C., Police Station- Mehnagar, District- Azamgarh, during the pendency of trial.
4. Learned counsel for the applicants has stated that the applicants are stated to be marginal witness to the said sale deed. The applicants were not nominated in the final report (charge-sheet) filed against the co-accused person. The main accused person vendor Ramroop has already been enlarged on bail by the Co-ordinate Bench of this Court vide order dated 18.7.2023 passed in Criminal Misc. Bail Application No.24290 of 2023. The applicant nos. 1 & 2 are languishing in jail since 23.9.2023 and 9.10.2023, respectively. Learned counsel has stated that another case of similar nature has been foisted on applicant no.2, in which he has yet to apply for bail. He further submitted that since the roles of the applicants are identical to that of co-accused person who has already been enlarged on bail, they are also entitled to be enlarged on bail on the ground of parity.
5. The prayer for bail has been vehemently opposed by learned counsel for the informant and learned A.G.A. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by them.
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 applicants have made out a case for bail. The bail application is **allowed** on the ground of parity.

7. Let the applicants- **Harendra Singh** and **Rajesh**, who are involved in aforementioned case crime be released on bail on their 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 applicants 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 applicants 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 them 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 applicants shall not in any way affect the learned trial Judge in forming their independent opinion based on the testimony of the witnesses.

Order Date :- 1.12.2023

Vikas

[Krishan Pahal, J.]