

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49966 of 2023

Applicant :- Shamshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Najakat Ali

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant who has filed supplementary affidavit which is taken on record, learned AGA for the State and perused the record.

2. The instant bail application under Section 439 CrPC has been filed with the prayer to enlarge the applicant on bail in Case Crime No.0324 of 2023, under Section 3(1) of the UP Gangsters and Anti Social Activities (Prevention) Act, 1986, Police Station Civil Lines, District Rampur, during the pendency of the trial.

3. Learned counsel for the applicant submits that according to the gang chart, two cases are shown against the applicant and in the said cases the applicant has been enlarged on bail. He further submits that in the FIR, in issue, the allegations with regard to disturbing the public order, as also regarding gaining undue temporal, pecuniary, material or other advantage of like nature against the applicant are vague. It is also contended that the co-accused, Salman having similar role to that of the aforesaid co-accused has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 05.12.2023 passed in Criminal Misc. Bail Application No.52153 of 2023, therefore, the applicant is also entitled to be enlarged on bail on the ground of parity. He has been implicated in the present case due to police rivalry. He is not the member of any gang. It is also contended that there is criminal history of one more case which has been explained in paragraph-4 of the supplementary affidavit. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 04.10.2023. In case the applicant is released on bail, he will not misuse the said liberty.

4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Considering the rival submissions of learned counsel for parties, material available on record but without expressing any opinion on the merits of the case, this Court is of opinion that the applicant is entitled to be released on bail. Accordingly, the bail application is allowed.

6. Let the applicant- **Shamshad**, 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 tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses; 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 :- 8.12.2023
Shahroz