

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51276 of 2023

Applicant :- Shahid @ Sem

Opposite Party :- State of U.P.

Counsel for Applicant :- Inder Pal Singh Tomar, Anjali Singh Tomer

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Ms. Anjali Singh Tomer, learned counsel for the applicant, Sri R.B. Pandey alongwith Gajendra Kumar Gautam, learned counsels for the informant, Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the material placed on record.
3. This is the second bail application on behalf of the applicant. The first one was rejected by this Court vide order dated 07.02.2023 passed in Criminal Misc. Bail Application No.22468 of 2020.
4. Applicant seeks bail in Case Crime No.419 of 2019, under Sections 302 and 34 I.P.C., Police Station Sadabad Kotwali, District Hathras, during the pendency of trial.
5. Learned counsel for the applicant has stated that the role of the applicant is of exhortation. The co-accused person Ankush who has fired at the victim has been enlarged on bail by this Court vide order dated 6.11.2023 passed in Criminal Misc. Bail Application No.44621 of 2023. The applicant is languishing in jail since 23.09.2019. 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.
6. The prayer for bail has been vehemently opposed by learned A.G.A. and learned counsel for the informant. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by them and have stated that the trial be taken up on day today basis.
7. 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 Cr.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, this Court is of the view that the applicant has made out a case for grant of bail on the ground of parity. The bail application is **allowed** on the ground of parity.

8. Let the applicant- **Shahid @ Sem**, who is involved in aforementioned case crime 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.

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

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 based on the testimony of the witnesses.

11. However, it is directed that the aforesaid case pending before the trial court be decided expeditiously as early as possible in view of the principle as has been laid down in the recent judgments of the Apex Court in the cases of **Vinod Kumar vs. State of Punjab; 2015 (3) SCC 220** and **Hussain and Another vs. Union of India; (2017) 5 SCC 702**, if there is no legal impediment.

Order Date :- 13.12.2023

Ravi Kant

(Krishan Pahal, J.)