

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50751 of 2023

Applicant :- Khushi Kesharwani

Opposite Party :- State of U.P.

Counsel for Applicant :- Prashant Drivedi, Yash Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record.

2. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

3. By means of the present bail application, the applicant seeks bail in Case Crime No.293 of 2020, under Section 2/3 of UP Gangsters and Anti-Social Activities (Prevention) Act, 1986, Police Station Manjhanpur, District Kaushambi, during the pendency of trial.

4. It is argued by the learned counsel for the applicant that the prosecution under the Gangsters Act has been launched against the applicant on the basis of two cases, shown in the gang chart in which he has been enlarged on bail, which are triable by the Magistrate, all the cases are with regard to the offences of cheating, criminal breach of trust and criminal intimidation as defined in the Indian Penal Code. He has been falsely implicated in the present case due to police rivalry. He is not the member of any gang. It is further contended that there is criminal history of one more case, which has been explained in paragraph-6 of the affidavit filed in support of the bail application in which also he has been enlarged on bail. It is also contended that the co-accused, Waseem Ahmad having similar role has already been enlarged on bail by this Court vide order dated 29.11.2023 passed in Criminal Misc. Bail Application No.47978 of 2023 on which basis the applicant is also entitled to be enlarged on bail on the ground of parity. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 08.08.2023. In case the applicant is released on bail, he will not misuse the said liberty.

5. Learned AGA opposed the prayer for bail but has not disputed the aforesaid submissions of learned counsel for the

applicant.

6. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant has made out a fit case for bail on the ground of parity. Accordingly, the bail application is allowed.

7. Let the applicant - **Khushi Kesharwani**, involved in the aforesaid 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 the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence;

(iii) shall not pressurize the prosecution witnesses.

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.

Order Date :- 11.12.2023

Shahroz