

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51164 of 2023

Applicant :- Goldi @ Sheelesh Kumar And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Vashistha

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Supplementary affidavit has been filed on behalf of the applicants in Court today, which is taken on record.
3. Heard Sri Ajay Kumar Vashistha, learned counsel for the applicants, Sri Amit Kumar, learned A.G.A. for the State and perused the material placed on record.
4. Applicants seek bail in Case Crime No. 87 of 2023, under Sections 307, 427 IPC and Section 3/57 Mines and Minerals (Avoidance) Rules, Police Station Jaitpur, District Agra, during the pendency of trial.
5. It is submitted by learned counsel for the applicants that similarly placed co-accused person, Sonu has already been enlarged on bail by this Court vide order dated 21.11.2023 passed in Criminal Misc. Bail Application No. 49433 of 2023. The applicants are languishing in jail since 31.10.2023 having no criminal history. He further submitted that the name of the applicants came up in the statement of co-accused person Sonu, who is enlarged on bail. There is no previous case against the applicants except one case subsequent to the present FIR. Since the roles of the applicants are identical to that of co-accused, Sonu, who has already been enlarged on bail, they are 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. However, the aforesaid factual aspect of the parity to the co-accused has not been disputed by him.
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 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.

8. Let the applicants- Goldi @ Sheelesh Kumar and Sadan Gopal, 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 applicants 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.

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 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 :- 30.11.2023

Priya