

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52844 of 2023

Applicant :- Rashid And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Purnima

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Ms. Purnima, learned counsel for the applicants, Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the material placed on record.
3. Applicants seek bail in Case Crime No.498 of 2023, under Sections 3/5/8 U.P. Prevention of Cow Slaughter Act, 1956, Police Station Sikandrara, District Hathras, during the pendency of trial.
4. It is submitted by learned counsel for the applicants that similarly placed co-accused person Muveen has already been enlarged on bail by this Court vide order dated 09.11.2023 passed in Criminal Misc. Bail Application No.48539 of 2023. He further submitted that since the roles of the applicants are identical to that of co-accused who has already been enlarged on bail, they are also entitled to be enlarged on bail on the ground of parity. The applicants are languishing in jail since 07.09.2023. The criminal history of two cases assigned to the applicant stands explained. A case under U.P. Gangsters Act has also been instituted against the applicant subsequent to the present FIR.
5. 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.
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 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 applicants have made out a case for grant of bail on the ground of parity. The bail application is **allowed** on the ground of parity.

7. Let the applicants- **Rashid** and **Bakeel**, 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 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 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 :- 15.12.2023

Ravi Kant

(Krishan Pahal, J.)