

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52209 of 2023

Applicant :- Dharma @ Dharmendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Mithilesh Kumar Shukla

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 has been filed with a prayer to enlarge the applicant on bail in Case Crime No.81 of 2023, under Sections 395, 397 IPC, Police Station Barhan, District Agra, during the pendency of trial.

3. It is contended by the learned counsel for the applicant that the applicant has been falsely implicated in the present case. The applicant is not named in the FIR; his name has come into picture in the confessional statement of the co-accused. It is also contended that the co-accused persons having similar role to that of the present applicant have already been enlarged on bail by co-ordinate Benches of this Court vide orders dated; (i) 03.07.2023 passed in Criminal Misc. Bail Application No.28845 of 2023 (Tota Ram @ Badal Vs. State of UP); (ii) 26.07.2023 passed in Criminal Misc. Bail Application No.29273 of 2023 (Gautam Vs. State of UP); (iii) 14.07.2023 passed in Criminal Misc. Bail Application No.29618 of 2023 (Pankaj Kumar Vs. State of UP); and (iv) 24.07.2023 passed in Criminal Misc. Bail Application No.31176 of 2023 (Yogesh Vs. State of UP), therefore, the applicant is also entitled to be enlarged on bail considering the ground of parity. It is further contended that there is criminal history of five cases against the applicant in all of which except one the applicant has already been enlarged on bail 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 16.05.2023. 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 advanced by the

counsel for the applicant, from the record.

5. 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 is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

6. Let the applicant - **Dharma @ Dharmendra**, 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.

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 :- 13.12.2023

Shahroz