

Court No. - 64

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52353 of 2023

Applicant :- Rohit Verma @ Kakul

Opposite Party :- State of U.P.

Counsel for Applicant :- Sandeep Kumar Rai

Counsel for Opposite Party :- G.A.

Hon'ble Siddharth,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State and perused the material on record.

2. The instant bail application has been filed on behalf of the applicant, Rohit Verma @ Kakul, with a prayer to release him on bail in **Case Crime No. 211 of 2023, under Sections-302, 120B, 34 IPC and 3/25/27 of Arms Act, Police Station- T.P. Nagar, District- Meerut**, during pendency of trial.

3. Learned counsel for the applicant has submitted that the co-accused, Suresh Bhati, who was similarly implicated in this case like the applicant has already been granted bail vide bail application No. 46829 of 2023 by the following order:-

" Heard learned counsel for the applicant and learned A.G.A.

The instant bail application has been filed on behalf of the applicant, Suresh Bhati, with a prayer to release him on bail in Case Crime No. 211 of 2023, under Sections 302,120-B,34 IPC Police Station T.P. Nagar, District- Meerut, during pendency of trial.

There is allegation in the First Information Report against co-accused, Pawan Garg and other family members regarding commission of murder of wife of co-accused, Nitin Garg, in pursuance of conspiracy. Learned counsel for the applicant has submitted that after inquest First Information Report was lodged .Applicant was not named in the First Information Report. However in the statement of informant he has expressed apprehension against Yashpal and Suresh Bhati, Rohit and Neeraj Sharma and applicant . The applicant and Yashpal allegedly paid money to co-accused, Neeraj Sharma, to commit the alleged murder but it is not clear why they paid money to the Neeraj Sharma. Applicant has been falsely implicated in this case. There is no evidence against the applicant at this stage.The applicant is in jail since 12.6.2023. He has criminal history of one case, which has been explained in paragraph-29 of the application .

Learned A.G.A. has opposed the bail prayer of the applicant but could not dispute the aforesaid facts.

Keeping in view the nature of the offence, evidence, complicity of the accused; submissions of the learned counsel for the parties noted above; finding force in the submissions made by the learned counsel for the applicant; keeping view the uncertainty regarding conclusion of trial; one sided investigation by police, ignoring the case of accused side; applicant being under-trial having fundamental right to speedy trial; larger mandate of the Article 21 of the Constitution of India; considering the dictum of Apex Court in the recent judgment dated 11.07.2022 of the Apex Court in the case of Satendra Kumar Antil vs. C.B.I., passed in S.L.P (Crl.) No. 5191 of 2021; considering 5-6 times overcrowding in jails over and above their capacity by the under trials and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

Let the applicant 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.

- 1. The applicant shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.*
- 2. The applicant shall cooperate in the trial sincerely without seeking any adjournment.*
- 3. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.*
- 4. That the applicant shall not, directly or indirectly, make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer;*
- 5. The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence and the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law to ensure presence of the applicant.*
- 6. The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail."*

4. Learned counsel for applicant has submitted that another co-accused, Yashpal, has also been enlarged on bail vide bail

application no. 46733 of 2023. The case of applicant stands on identical footing, hence the applicant is also entitled for bail on the ground of parity for the reasons given in bail application of co-accused. The applicant is languishing in jail since 10.06.2023.

5. Learned AGA has opposed the prayer for bail, but does not dispute the claim of parity.

6. Let the applicant involved in aforesaid case be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

(i) The applicant shall not tamper with the evidence or threaten the witnesses.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the Trial Court on each date fixed, either personally or as directed by the Court. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A of the Indian Penal Code.

(iv) In case the applicant misuse the liberty of bail during trial and in order to secure his presence, proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the Court on the date fixed in such proclamation then the Trial Court shall initiate proceedings against him in accordance with law under Section 174-A of the Indian Penal Code.

(v) The applicant shall remain present in person before the Trial Court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

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

Identity and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

Order Date :- 6.12.2023

Abhishek