

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4088 of 2022

Applicant :- Rahis Ahmad(Second Bail)

Opposite Party :- Ncb Luknow

Counsel for Applicant :- Parmanand Gupta,Kaushal Kishore Tewari,Parmanand Gupta

Counsel for Opposite Party :- Akhilesh Kumar Awasthi

Hon'ble Brij Raj Singh,J.

1. Heard learned counsel for the applicant and Sri Akhilesh Kumar Awasthi, learned counsel appearing for N.C. B., Lucknow.
2. The present second bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No. 24 of 2018 under section 8/20, 27A, 29 NDPS Act, Police Station NCB Mahanagar District Lucknow.
3. Learned counsel for the applicant has submitted that this is second bail application as the first bail bearing Criminal Misc. Bail Application No.10126 of 2019 has been rejected by this Court on 09.03.2022. He has submitted that co-accused Satveer Singh and Kalingapatna Gauri have been granted bail by this Court subsequently after rejection of first bail application of the applicant,therefore, new cause of action has arisen and he has filed the present bail application.
4. It has been submitted by learned counsel for the applicant that co accused Satveer Singh, who is driver of the truck and other co-accused Kalingapatna Gauri who was also apprehended alongwith co-accused Satveer Singh have been granted bail by coordinate Bench this Court vide orders dated 16.10.2023 and 28.11.2023 passed in Criminal Misc. Bail Application Nos.8425 of 2019 and 10715 of 2023 respectively. It has been submitted by learned counsel for the applicant that the applicant is truck owner and he is not arrested on the spot and the case of the applicant is standing on the better footing with the other two aforesaid accused persons, who have been granted bail. He has submitted that the applicant is in jail since 02.10.2018 and more than five years have passed and the minimum punishment of ten

years is provided under NDPS Act. Learned counsel for the applicant has submitted that he is pressing the same ground which has been taken in the case of co-accused Satveer Singh and Kalingapatna Gauri.

5. Sri Akhileh Kumar Awasthi, learned counsel appearing for NCB Lucknow has opposed the prayer for bail but could not dispute the fact that the co-accused Satveer Singh and Kalingapatna Gauri have been granted bail by this Court and the case of the applicant is not distinguishable on the facts as mentioned in the order of both the co-accused except that he is truck owner.

6. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the argument that the case of the applicant is at par with the case of two accused persons, namely, Satveer Singh and Kalingapatna Gauri, who have been granted bail by this Court, the argument that the applicant has undergone more than five years and twin conditions mentioned under section 37(i)(b) of the NDPS Act is satisfied which is already recorded in the order of co-accused Satveer Singh, therefore, I am of the opinion that the applicant is entitled to be released on bail on the ground of parity.

7. Let the applicant, namely, **Rahis Ahmad**, be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails

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.

(iv) 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.

It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The Trial Court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 14.12.2023

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