

Court No. - 29

Case :- CRIMINAL APPEAL No. - 1320 of 2023

Appellant :- Mushtak Ali

Respondent :- State Of U.P. Thru. The Prin. Secy. Deptt. Of Home, Lko.
And Another

Counsel for Appellant :- Ram Naresh Singh Chauhan, Onkar Nath Nishad

Counsel for Respondent :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

Sri Kuldeep Kaur, Advocate, has filed his power on behalf of the opposite party no.2, which is taken on record.

Heard learned counsel for the appellant, Sri Kuldeep Kaur, learned counsel for opposite party no.2, learned AGA for the State-respondent and perused the material brought on record on the instant application for bail.

The present appeal has been filed on behalf of the appellant seeking bail in Complaint Case No.174 of 2018, under section 376-D, 506, IPC and section 3(2)(v) of SC/ST Act, Police Station Mishrikh, District Sitapur.

It is contended by learned counsel for the appellant that the appellant is innocent and he has been falsely implicated in the present case due to ulterior motive. Identically situated co-accused Sri Krishna Maurya, has already been enlarged on bail by the Co-ordinate Bench of this Court in Criminal Appeal No.959 of 2021, vide order dated 01.08.2023, hence the appellant is also entitled to be enlarged on bail on the ground of parity of the orders aforesaid. The appellant is languishing in jail since 04.04.2023 and in case he is granted bail, he will not misuse the liberty and would cooperate in the trial proceedings.

On the other hand, learned AGA as well as learned counsel for opposite party no.2 have very vehemently opposed the aforesaid contention, however, could not controvert the aforesaid facts.

Considering the facts and circumstances of the case and taking into account that identically situated co-accused Sri Krishna Maurya, has

already been enlarged on bail by the Co-ordinate Bench of this Court in Criminal Appeal No.959 of 2021, vide order dated 01.08.2023, and the appellant is languishing in jail since 04.04.2023, without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

Let appellant-**Mushtak Ali** 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 appellant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(ii) The appellant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

With the aforesaid observation and direction present criminal appeal is disposed of.

(Renu Agarwal,J.)

Order Date :- 6.11.2023
VKG