

**Court No. - 27**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 6596 of 2023

**Applicant :-** Durga Parsad Mishra

**Opposite Party :-** State Of U.P Thru. Prin. Secy Home Lko

**Counsel for Applicant :-** Shanker Lal Pandey, Paritosh Shukla, Sukh Deo Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Brij Raj Singh, J.**

1. This is the second bail application. The first bail application was dismissed as not pressed on 14.12.2022.

2. Heard Shri Shanker Lal Pandey, learned counsel for the applicant, Shri Rajnish Kumar Verma, learned AGA for the State and perused the record.

3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.45 of 2022, under Sections 147, 148, 149, 323, 307, 302, 504, 506 I.P.C. Police Station Sangrampur, District Pratapgarh.

4. Learned counsel for the applicant submitted that co-accused namely Ashutosh Mishra and Abhishek Mishra, have been granted bail were named in the FIR along with the applicant. It is submitted that the role of the applicant is at par with the case of co-accused who have been granted bail by this Court in Criminal Misc. Bail Application Nos.1887 of 2023 dated 28.07.2023 and 9192 of 2023 on 21.07.2023 respectively. The applicant has adopted the same arguments and grounds which were argued in the case of co-accused.

5. Learned counsel further submitted that name of the applicant has come into light in the statement of injured Prashant Pal along with co-accused Abhishek Mishra and Ashutosh Mishra. Learned counsel has explained the three criminal cases satisfactorily in paras 2 to 4 in supplementary affidavit. It is submitted that all the fact witnesses PW1 Ramraj Pal, PW2 Prashant Pal and PW3 Sushant Pal have been examined by the trial court on 02.06.2023, 21.07.2023 and 19.09.2023 respectively and co-accused has been granted bail on 28.07.2023 and 21.07.2023. The applicant has no criminal history and is in jail since 06.06.2022.

6. Learned AGA opposed the prayer for bail but could not dispute the fact that co-accused Ashutosh Mishra and Abhishek Mishra, have been granted bail by this court.

7. Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking to the argument that co accused Ashutosh Mishra

and Abhishek Mishra having similar role have already been granted bail as such the applicant is also entitled to be released on bail.

8. Let the applicant **Durga Parsad Mishra** 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.

9. 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 :- 8.12.2023**

Pks