

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6974 of 2023

Applicant :- Sadique Ali

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

Counsel for Applicant :- Vishwa Nath Singh

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Counter affidavit filed on behalf of the State, is taken on record.
2. Heard Vishwa Nath Singh, learned counsel for the applicant and Sri Ran Vijay Singh, learned A.G.A. for the State.
3. The present second bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No. 97 of 2020, under sections 302, 201,34, 120B IPC and Section 4/25 Arms Act , Police Station Rupaidiha District Bahraich.
4. Learned counsel for the applicant has submitted that this is second bail application as the first bail application bearing Criminal Misc. Bail Application No. 11577 of 2021 was rejected by this Court on 29.09.2022.
5. It has been submitted by learned counsel for the applicant that four co-accused, namely, Meraj, Nanhe @ Salman, Riyaz and Saira have been granted bail by coordinate Bench of this Court vide orders dated 12.05.2022, 01.10.2021, 07.09.2021 and 01.10.2021 passed in Criminal Misc. Bail Application Nos 11143 of 2020, 7172 of 2020, 6545 of 2021 and 6766 of 2020 respectively. Learned counsel for the applicant has submitted that four fact witnesses were summoned by the trial court and their statements were recorded. He has annexed the statements of all the fact witnesses as Annexure nos. 4 to 7 to the affidavit filed in support of the bail application. Learned counsel for the applicant has submitted that since other co-accused have been granted bail, the applicant is also entitled for bail and he is in jail since 14.03.2020.

6. On the other hand, Sri Ran Vijay Singh, learned Additional Government Advocate has opposed the prayer for bail and he has submitted that all the four accused were granted bail by this court prior to rejection of first bail application of the applicant. Similarly, all the four fact witnesses were also examined prior to rejection of first bail application of the accused applicant. He has further submitted that the papers and grounds were available to him but the same has not been raised by him in the first bail application. He cannot raise the same in the present bail application. He has submitted that there is no change in the circumstances.

7. After hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the argument that the statements of all the fact witnesses were recorded and the four co-accused were granted bail prior to rejection of first bail of the applicant but he did not raise the grounds in first bail application and now he cannot say that the said grounds may be considered in the second bail application and there is no such changed circumstances, therefore, I am of the opinion that the applicant is not entitled to be released on bail.

8. Accordingly, the present bail application of the accused-applicant Sadique Ali is **rejected**. However, trial court is directed to conclude the trial within eight months.

Order Date :- 7.11.2023

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