

Court No. - 14

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11490 of 2023

Applicant :- Bhanu @ Shanwal Prasad

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

Counsel for Applicant :- Bal Keshwar Srivastava, Ravi Patel

Counsel for Opposite Party :- G.A.

Hon'ble Mohd. Faiz Alam Khan, J.

1. Heard Shri Bal Keshwar Srivastava, learned counsel for the accused-applicant as well as learned A.G.A. for the State and perused the record.

2. This bail application has been moved by the accused/applicant- **Bhanu @ Shanwal Prasad** for grant of bail, in Case Crime No. 89 of 2023, under Section 302 and 506 I.P.C., Police Station Kotwali Dehat, District Balrampur during trial.

3. Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication. Identical role has been assigned to the applicant as well as to one Kapil Dev who has been granted bail by a co-ordinate Bench of this Court, vide order dated 06.10.2023 passed in Criminal Misc. Bail Application No. 11009 of 2023.

4. It is also submitted that there is no direct evidence against the applicant as the F.I.R. of the instant case has been lodged by moving an application under Section 156(3) Cr.P.C. and the allegations levelled therein have been carved out with the help of a legal professional.

5. It is also submitted that the statement of witnesses Motiram Yadav, Dinesh Yadav and Malik Yadav has been recorded with considerable delay and no explanation of the same has been given and, therefore, the statement of these witnesses may not be termed as trustworthy as they appear to be planted witnesses.

6. It is next submitted that applicant is languishing in jail in this case since 07.07.2023 and he is not having any criminal history. Charge sheet in this case has already been filed and there is no apprehension that after being released on bail he may flee from

the course of law or may otherwise misuse the liberty.

7. Learned A.G.A., however, opposes the prayer of bail of the applicant on the ground that the applicant has committed an heinous offence and, therefore, he is not entitled to be released on bail, but he could not controvert the submissions made on behalf of the applicant that the role of the instant applicant is at par with co-accused Kapil Dev, who has been granted bail by a co-ordinate Bench of this Court.

8. Having heard learned counsel for the parties and having perused the record, it is reflected that the role of the instant applicant is identical to the co-accused Kapil Dev, who has already been granted bail by a co-ordinate Bench of this Court. Nothing has been brought in the knowledge of this Court, which may suggest that the order whereby the facility of bail to the co-accused Kapil Dev has been granted, has been challenged at any higher forum or has been cancelled by the same Court. The trial of the case is not going to conclude in near future. Applicant is languishing in jail in this case since 07.07.2023 without any criminal antecedents. Charge sheet in this case has also been filed. Thus, having regard to the principle of parity, the applicant is also entitled to be granted the facility of bail.

9. Keeping in view the nature of the offence, evidence, complicity of the accused, severity of punishment, submissions of the learned counsel for the parties and without expressing any opinion on the merits of the case, I am of the considered view that applicant has made out a case for bail. The bail application is thus **allowed**.

10. Let the accused/applicant- **Bhanu @ Shanwal Prasad** involved in above-mentioned case, be released on bail on his furnishing a personal bond with two sureties in the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not tamper with the prosecution evidence by intimidating/pressurizing the witnesses, during the investigation or trial.

(ii) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(iii) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

11. In case of breach of any of the above conditions, it shall be

a ground for cancellation of bail.

12. Identity, status and residence proof of the applicant and sureties be verified by the Court concerned before the bonds are accepted.

13. Observations made herein-above by this court are only for the purpose of disposal of this bail application and shall not be construed as an expression on the merits of the case.

Order Date :- 16.10.2023

Praveen