

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12304 of 2023

Applicant :- Ramnath @ Nathu

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

Counsel for Applicant :- Naveen Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Sri Manish Bajpai Advocate has filed his Vakalatnama on behalf of the complainant. The same is taken on record.

2. Heard learned counsel for the applicant Sri Manish Bajpai, learned counsel for the complainant and Sri Rajesh Kumar Singh learned A.G.A.-I for the State.

3. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.122 of 2022 (Session Trial No.879 of 2022) under sections 147, 148, 149, 302, 201 IPC , Police Station Itiyathok, District Gonda.

4.It has been submitted by learned counsel for the applicant that co-accused Shravan, Jumman alias Abdul Rauf, Deena Nath Verma and Jagdish alias Bangali have been granted bail by coordinate Bench this Court vide orders dated 03.10.2023,12.07.2023, 12.07.2023 and 12.07.2023 passed in Criminal Misc. Bail Application Nos. 11593 of 2023, 518 of 2023, 13488 of 2023 and 14287 of 2023 respectively. He also submitted that the case of the applicant is on better footing comparatively to the case of Jumman alias Abdul Rauf. He has submitted that the case of the applicant is at par with the aforesaid other co-accused, who have been granted bail, thus, the applicant may also be granted bail on the ground of parity. He further submitted that it is case of weak evidence and no direct or incriminating evidence has been found against the applicant.The applicant has no previous criminal history and there is no possibility of fleeing away from the judicial process or tempering with the witnesses and in case, the applicant is enlarged on bail, he shall not misuse the liberty of bail. The applicant is in jail since

19.05.2022.

5. On the other hand, Sri Manish Bajpai, learned counsel for the complainant and Sri Rajesh Kumar Singh learned A.G.A.Learned A.G.A. have opposed the prayer for bail but could not dispute the fact that co-accused Shravan, Jumman alias Abdul Rauf, Deena Nath Verma and Jagdish alias Bangali having similar role have been granted bail by this Court.

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 co-accused Shravan, Jumman alias Abdul Rauf, Deena Nath Verma and Jagdish alias Bangali, who have been granted bail by this Court, 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, **Ramnath @ Nathu**, 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 :- 17.10.2023

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