

**Court No. - 59**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 33323 of 2018

**Applicant :-** Sabir

**Opposite Party :-** State Of U.P.

**Counsel for Applicant :-** Shashi Kumar Mishra

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

**Hon'ble Suneet Kumar,J.**

Heard learned counsel for the applicant and learned A.G.A. appearing for the State and perused the record.

Learned counsel for the applicant submits that co-accused Nipendra @ Kanhaiya has already been enlarged on bail; as per the prosecution case, co-accused Santosh Yadav booked a vehicle of the deceased; body of the deceased was found with gun shot injury; during investigation name of co-accused Santosh Yadav surfaced; name of the applicant surfaced in the statement of the complainant of having conspired the commission of the crime; no recovery has been made from the applicant; there is no other legal evidence against the applicant except the statement of the complainant; it is urged that the applicant has been falsely implicated, hence, the applicant is also entitled for bail on the ground of parity; applicant having no other reported criminal antecedent is languishing in jail since 6.5.2018.

Learned A.G.A. opposed the prayer for bail but could not dispute the aforesaid facts as argued by the learned counsel for the applicant.

Without expressing any opinion on the merits of the case and considering the nature of accusation and the severity of punishment in case of conviction and the nature of supporting evidence, reasonable apprehension of tampering of the witnesses and prima facie satisfaction of the Court in support of the charge, the applicant is entitled to be released on bail in this case.

Let the applicant-**Sabir** involved in Case Crime No.130 of 2018, under Sections 364, 302, 394, 411, 201, 120B I.P.C., Police Station Kurra, District Mainpuri be released on bail on his furnishing a personal bond of Rs. One lac with two sureties (one should be of his family members) each in the like amount to the satisfaction of the 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.

**Order Date :- 31.8.2018**

S.Prakash