

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 26781 of 2023

Applicant :- Anil Gond

Opposite Party :- State of U.P.

Counsel for Applicant :- Dharmendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. Heard learned counsel for the applicant and Sri P.P. Tiwari, learned A.G.A. for the State and perused the material placed on record.

2. Applicant seeks bail in Case Crime No. 361 of 2023, U/S 8/20 N.D.P.S. Act, Police Station Kotwali Padrauna, District Kushi Nagar, during the pendency of trial.

3. It is submitted by learned counsel for the applicant that similarly placed co-accused person, Haresh Ram has already been enlarged on bail by this Court vide order dated 14.6.2023 passed in Criminal Misc. Bail Application No. 26627 of 2023. The applicant is languishing in jail since 28.4.2023, having no criminal history. He further submitted that since the role of the applicant is identical to that of co-accused, who has already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity.

4. The prayer for bail has been vehemently opposed by learned A.G.A. However, the aforesaid factual aspects of parity to the co-accused and of no criminal history of the applicant, have not been disputed by him.

5. Considering the submissions made by learned counsel for the parties, this Court is of the view that the applicant has made out a case for grant of bail on the ground of parity.

6. Without expressing any opinion on the merits, the bail application is allowed. Let the applicant- **Anil Gond** who is involved in aforementioned case crime number be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the

sureties be verified.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date 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 IPC.

(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. may be issued and if 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 IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

7. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

8. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 30.6.2023

Shalini