

Naseer @ Guddu @ Pan vs State Of U.P. on 10 April, 2023

HIGH COURT OF JUDICATURE AT ALLAHABAD

?Court No. - 88

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4607 of 2023

Applicant :- Naseer @ Guddu @ Pan

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

Heard Sri Manoj Kumar Tripathi, learned counsel for the applicant and Sri Varun Kumar Agnihotri, learned Brief Holder for the State.

The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 63 of 2022, under Sections 394, 411, 120B IPC, Police Station Kapoorpur, District Hapur during pendency of the trial.

This is second bail application filed on behalf of the applicant. The first bail application of applicant was dismissed by this Bench vide order dated 17.01.2023 passed in Criminal Misc. Bail Application No. 57828 of 2022.

Learned counsel for the applicant submitted that he is pressing the instant second bail application on the fresh ground that after rejection of the first bail application, one co-accused Nadeem @ Deepak was released on bail by the co-ordinate Bench of this Court vide order dated 16.03.2023. He placed the bail order of co-accused Nadeem @ Deepak during the course of argument, which is taken on record and marked as 'A'.

Per contra, learned AGA opposed the prayer for bail and submitted that first bail application of the applicant was dismissed by this Court vide order dated 17.01.2023 and at the time rejecting the first bail application of the applicant, entire facts has been discussed in detail and applicant along with other co-accused namely Saleem committed robbery of Rs. 9.5 lakhs from the informant and from his possession Rs. 1.28 Lakhs were recovered and from the possession of co-accused Nadeem @ Deepak whose bail was granted by the co-ordinate Bench of this Court vide order dated 16.03.2023 only Rs. 9300/- was recovered, therefore, case of Nadeem @ Deepak is distinguishable from the case of applicant and applicant cannot claim parity of the bail of co-accused Nadeem @ Deepak, therefore, instant second bail application should be rejected.

I have heard learned counsel for the parties and perused the record of the case.

This is second bail application filed on behalf of the applicant. The first bail application has been dismissed by this Bench vide order dated 17.01.2023 and as per prosecution version total Rs. 9.5 lakhs were looted from the informant and out of Rs. 9.5 lakhs, from the possession of applicant Rs. 1.28 lakhs were recovered. Although, co-accused Nadeem @ Deepak was released on bail by this Court on 16.03.2023 i.e. after rejection of the first bail application of the applicant but at the time of granting bail to co-accused Nadeem @ Deepak this fact could not be placed before this Court that the bail application of the applicant has already been rejected by this Bench and from the bail order of co-accused Nadeem @ Deepak it appears that from his possession only Rs. 9300/- was recovered, therefore, case of Nadeem @ Deepak is distinguishable from the case of applicant and applicant cannot claim parity from him.

I find no good ground on the basis of which, the second bail application can be allowed.

Accordingly, the instant second bail application filed on behalf of the applicant is rejected.

Order Date :- 10.4.2023 AK Pandey