

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 2310 of 2023

Applicant :- Radhey Shyam Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Sudarshan Singh

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the records.
3. This is second bail application on behalf of the accused-applicant. The first bail application was rejected on 6.5.2022 by Hon'ble Om Prakash Tripathi J. This application has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 141 of 2018, under Sections 409, 406 I.P.C., Police Station-Mardah, District- Ghazipur, during pendency of the trial.
4. Counsel for the applicants submits that the applicant has been falsely implicated in the instant case. The applicant is a Government Servant. In compliance of order dated 3.11.2023, a D.D. (Key: NEBMAW SR. No: 198026) to the tune of Rs.3,30,000/- (three lakh thirty thousand) in original has been submitted by the learned counsel for the applicant which is taken on record. It is next contended that Rs. 2,10,000/- has already been deducted and a sum of Rs. 15,000/- is also being deducted from the account of the applicant and as such only Rs. 3,30,000/- remains to be deposited in connection with the alleged embezzlement of Rs. 12,30,000/- which is being deposited through the aforesaid D.D. It is next contended that co-accused Chandrabhan Yadav, having identical role, has already been granted bail by the Court of Magistrate, itself. The criminal history of the applicant has been explained. The applicant is in jail since 10.02.2022, in case, he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having regard to the development as above and the fact that the applicant has remained confined for more than one and half year and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Radhey Shyam Yadav**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

9. The Office is directed to send the D.D. to the D.M., Ghazipur, after placing photocopy of the same on record. The D.M., Ghazipur, shall deposit the D.D. in the concerned Head.

Order Date :- 22.11.2023

S.Verma