

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 22605 of 2023

Applicant :- Atif Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Mashaluddin Shah, Anees Baig, Anwar Hussain

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Mohd. Shahrukh, Advocate holding brief of Sri Anwar Hussain, learned counsel for the applicant and Sri Brijesh Pratap Singh, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 129 of 2023, under Sections 392, 411 IPC, Police Station Tundla, District Firozabad during pendency of the trial.

3. Learned counsel for the applicant submitted that this is second bail application filed on behalf of the applicant. The first bail application of the applicant was dismissed by this Court vide order dated 04.04.2023 passed in Criminal Misc. Bail Application No. 13532 of 2023 and it appears from the order dated 04.04.2023 that his first bail application was dismissed on the ground that he was detained in jail only since one month and now applicant is in jail for last more than seven months, therefore, considering the long incarceration of the applicant, he may be released on bail.

4. He further submits that alleged offences are triable by Magistrate-I class and applicant was not having any previous criminal history but when he was arrested in the present matter then simultaneously he was implicated in the case of Section 392 IPC.

5. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

7. Although, this is second bail application filed on behalf of the applicant and his first bail application was dismissed by this Court vide order dated 04.04.2023 but it appears that the first bail application of the applicant was dismissed mainly on the ground that at that time he was in jail only for last one month but now more than seven months have been passed.

8. Further, apart from the present case applicant is not having any previous criminal history but when he was arrested in the present matter then he was also made accused in another case of Section 392 IPC and in that case he has been released on bail. Further, offence under Sections 392, 411 IPC are triable by Magistrate-I class.

9. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

10. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

11. Let the applicant - **Atif Khan** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

12. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

13. It is clarified that the observations made herein are limited to

the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 17.10.2023

AK Pandey