

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27309 of 2023

Applicant :- Vijay Kumar Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Uma Nath Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Mangala Prasad Rai, learned Senior Advocate assisted by Sri Uma Nath Pandey, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 238 of 2022, under Sections 419, 420, 467, 468, 471 IPC, Police Station Phulpur, District Azamgarh 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 on merit vide order dated 06.02.2023 passed in Criminal Misc. Bail Application No. 788 of 2023 and he is pressing the instant second bail application on the ground that applicant in the present matter is in jail since 23.11.2022 i.e. for almost a year and till date not even charges could be framed against him.

4. He placed the certified copy of the order-sheet during the course of argument, which is taken on record and marked as 'A'. He further submits that applicant is not having any previous criminal history.

5. Per contra, learned AGA opposed the prayer for bail and submits that serious allegation of cheating was leveled against the applicant and after considering the entire facts of the case, the first bail application of the applicant was dismissed but could not dispute the fact that applicant is in jail for almost a year and till date not even charges could be framed against him. He further could not dispute the fact the applicant is not having any previous criminal history.

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

7. However, this is second bail application filed on behalf of the applicant and first bail application of the applicant has been dismissed by this Court on merit on 06.02.2023 but it appears that applicant is in jail since 23.11.2022 i.e. for almost a year and till date not even charges could be framed against him. Further, applicant is not having any previous criminal history and he is facing trial for the offences under Sections 419, 420, 467, 468, 471 IPC.

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

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

10. Let the applicant - **Vijay Kumar Pandey** 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.

11. 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.

12. 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 :- 9.11.2023
AK Pandey