

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27873 of 2023

Applicant :- Ram Pratap @ Goldi

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Singh, Ramesh Kumar Shukla, Vivek Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Rejoinder affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
3. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.73 of 2022 under Sections 420, 467, 468, 471, 406, 506, 120-B IPC Police Station Kapoorpur District Hapur.
4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The applicant had given a sum of Rs. Six lakhs to the informant, however, when the informant refused to return the money of the applicant, moved an application under Section 156 (3) Cr.P.C against the informant. It is submitted that the aforesaid criminal proceedings have been undertaken as a counterblast to the application under Section 156(3) Cr.P.C. The allegation levelled against the

applicant and other co-accused persons are that they have duped the informant to the tune of Rs. Four Lakhs and Fifty thousand in the name of providing Government job. It is also alleged that the applicant and other co-accused persons had issued fake appointment letters to the informant, however when the informant went for joining the job he was not permitted to do so on the ground that the appointment letter was forged. It is further submitted that the instant criminal proceedings have been undertaken to avoid paying back sum of Rs. six lakhs given by the applicant to the informant. The applicant is not a beneficiary of any illicit transaction. Rs. Sixty Six thousand allegedly credited to the account of the present applicant was in respect of Rs. Six lakhs earlier borrowed by the informant from the applicant. The applicant has no criminal history apart from the instant case. Identically situated co-accused Manish has already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No20881 of 2023, vide order dated 23.05.2023. The applicant is seeking parity in relief granted to the aforesaid co-accused. The applicant is languishing in jail since 03.04.2023, in case he is enlarged on bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

5. On the other hand, learned AGA has opposed the prayer for bail but could not controvert the aforesaid factual matrix.

6. Considering the facts and circumstances of the case and taking into account that the instant criminal proceedings arise out of civil dispute between the parties, identically situated co-accused Manish has already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No20881 of 2023, vide order dated 23.05.2023 and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

7. The bail application is allowed.

8. Let applicant-Ram Pratap @ Goldi be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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 of the Indian Penal Code.

(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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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.

(v) The applicant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 16.10.2023
Nadeem