

**Court No. - 72**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 29268 of 2023

**Applicant :-** Jagdish Prasad

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Amit Rai

**Counsel for Opposite Party :-** G.A.

**Hon'ble Krishan Pahal,J.**

1. List has been revised.
2. Heard learned counsel for the applicant as well as Sri Anit Kumar Shukla, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 335 of 2022, U/S 420, 406, 204, 417, 120-B IPC, Police Station Dhampur, District Bijnor, during the pendency of trial.
4. As per prosecution story, the main accused persons namely, Shilpi Dixit, Dr. Prince Gupta and Amit Saxena are stated to have duped the informant and several other persons of their hard earned money on the pretext that their money shall be returned with heavy profit, which was deposited in the form of bonds in the company.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. Learned counsel has further stated that the applicant is not named in the FIR. It is further stated that the applicant himself has been duped by the same company as he had instituted an FIR No. 337 of 2022 against the directors of the company. It is next stated that the applicant himself was agent in the said company and being an employee, he has been falsely implicated in the case subsequently.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. In all, eight cases have been instituted against the applicant including the present one. One case is under the U.P. Gangsters Act, to which he has to only apply. Learned counsel has stated that the applicant is on bail in all the cases. In one of the Case Crime

No. 367 of 2022, he has already been enlarged on bail. There is no previous criminal history to the said FIRs instituted at one go.

7. Learned A.G.A. has vehemently opposed the bail application on the ground of criminal history of the applicant.

8. Learned counsel for the applicant has stated that the said criminal history of the applicant stands explained at para 28 annexed with the application. In support of his submission, learned counsel has placed much reliance upon the judgement of *Prabhakar Tewari Vs. State of U.P. and Another, 2020 (11) SCC 648*, the Apex Court has observed that pendency of several criminal cases against an accused may itself cannot be a basis for refusal of bail.

9. Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

10. Let the applicant- **Jagdish Prasad**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

11. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

**(Justice Krishan Pahal)**

**Order Date :- 1.11.2023\Shalini**