

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 31627 of 2023

Applicant :- Abhairaj Patel

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajiv Lochan Shukla, Sunil Kumar Yadav, Vaibhava Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Supplementary affidavit as well as rejoinder affidavit filed on behalf of the applicant is taken on record.
2. Heard Sri Manish Tewari, learned senior counsel assisted by Si Sunil Kumar Yadav, learned counsel for the applicant, learned AGA for the State and perused the record.
3. The instant bail application has been moved on behalf of the applicant with a prayer to enlarge him on bail in Case Crime No.75 of 2023, under Section 409 IPC, Police Station Asothar, District Fatehpur, during pendency of the trial.
4. It is argued by the learned counsel for the applicant that the applicant is innocent and has falsely been implicated in the present case. The alleged allegations levelled against the applicant is false and fabricated and he has not committed any offence as alleged. He is not involved in any financial embezzlement regarding purchase of paddy. The applicant is a Class-IV employee and he has only followed the instructions of the higher officials. It is also contended that responsibility of purchasing and sending the paddy to the millers vests with the higher officials, therefore, he has no concern with the same. He was made scapegoat in this matter. It is also argued that the co-accused, Ramkhelawan has already been granted anticipatory

bail by a co-ordinate Bench of this Court vide order dated 12.07.2023 passed in Criminal Misc. Anticipatory Bail Application No.6619 of 2023. He, therefore, contends that as the co-accused has already been enlarged on bail, the applicant is also entitled to be enlarged on bail on the ground of parity. The applicant is a law abiding citizen. There is no previous criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 08.05.2023. In case the applicant is released on bail, he will not misuse the said liberty.

5. Learned AGA has vehemently opposed the bail application. He has submitted that the applicant cannot claim parity with the aforesaid co-accused as he is the main accused in the alleged fraud and embezzlement and general role has been assigned to the aforesaid co-accused.

6. He further contended that from the FIR, statements of the informant and documentary evidences on record it is fully established that the applicant Abhairaj Patel, Mandi Assistant, *Mandi Samiti*, Kishanpur was also appointed as centre in-charge of *Up-Mandi Sthal* Asothar, Fatehpur. He was appointed to purchase paddy till 2nd May, 2023, total 22696.40 quintal paddy was purchased by him but till the date of lodging the FIR only 17208.20 quintal paddy was provided to the concerned rice mills, 5488.20 quintal paddy amounting to Rs.1,11,95,928.00/- was neither available on centre nor it was sent to any rice-mill and the same has been embezzled.

7. The recovery memo dated 7th May, 2023 establishes that the applicant was appointed as purchase centre in-charge (paddy). The photocopies of the order of appointment of the applicant as purchase centre in-charge *Up-Mandi* Asothar, photocopy of

formation of purchase centre, 10 photocopy pieces of online stock register, photocopy of offline stock register regarding purchasing of paddy, 2 photocopies of purchase register from which it was established that total 22696.40 quintal paddy was purchased out of which only 17208.20 quintal paddy was provided to the concerned rice-mills, 5488.20 quintal paddy amounting to Rs.1,11,95,928.00/- was not available on the centre and it was also not sent to any rice-mill and thus, the same has been embezzled.

8. He further argued that in the purchase register it has been mentioned that how many quintal paddy was purchased from which farmer and for what amount. From the above register it is established that total 22696.40 quintal was purchased through the applicant between 19th December, 2022 to 28th February, 2023. Therefore, the applicant is not entitled to be enlarged on bail and this bail application is liable to be rejected.

9. Considering the facts and circumstances of the case, submissions advanced by the counsel for the parties, this Court is not inclined to grant bail to the applicant. This Court is not satisfied that there are reasonable grounds for believing that he is not guilty of such offence and he would not commit any offence while on bail.

10. Accordingly, the bail application is **rejected**.

Order Date :- 9.11.2023

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