

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32102 of 2023

Applicant :- Rai Anoop Prasad

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Singh, Anuj Srivastava, Prateek Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard Sri Prateek Mishra, Advocate holding brief of Sri Anuj Srivastava, counsel for the applicant and Sri N.K. Sharma, learned A.G.A. for the State. Perused the record.

2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 591 of 2021, under Sections 420, 467, 468, 471, 120B, 201 I.P.C., and 4/10 Uttar Pradesh Public Examination (Prevention of Unfair Means) Act, 1989, Police Station- Kotwali Shamli, District-Shamli during pendency of the trial.

3. According to the prosecution case, three accused persons namely Dharmendra Malik, Ravi Pawar and Manish Malik were apprehended by the police. There are allegations against them that they leaked the examination paper of U.P. TET.

4. Learned counsel for the applicant submitted that applicant was neither named in the first information report nor any recovery was made from his possession. The name of the applicant was disclosed by Vinay Dahiya in police custody. The said statement, insofar as it implicates the applicant, is unreliable. No recovery of any incriminating article has been made from the applicant. It is next contended that the named co-accused Manish Malik @ Monu and Vinay Dahiya have been granted on bail by this Court vide orders dated 19.5.2022 and 19.5.2023 passed in Criminal Misc. Bail Application Nos. 4075 of 2022 and 21291 of 2023 respectively. Prior to the instant case the applicant was involved in Case Crime No. 943 of 2021, under Sections 409, 420 and 120B I.P.C. and in the said case the applicant has been granted bail by this Court. The applicant is in jail since 23.6.2023. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. and counsel for the informant have opposed the

prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant was not named in the first information report nor any recovery was made from the possession of the applicant. The name of the applicant was disclosed by co-accused Vinay Dahiya in police custody. The named co-accused Manish Malik @ Moti and Vinay Dahiya have been granted bail by this Court. Except the statement of Vinay Dahiya there is no substantive evidence against the applicant. Further the applicant has presently remained confined for more than five months and there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Rai Anoop Prasad** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 29.11.2023
S.S.