

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32988 of 2023

Applicant :- Shivam Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghuvansh Misra

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh,J.

1. Rejoinder affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant-accused, learned A.G.A. for the State and perused the record.
3. The present bail application has been filed by the applicant-accused in Case Crime No.139 of 2023, under Section 7/12 of Prevention of Anti Corruption Act and Section 120-B IPC, P.S. Rohaniyan, District Varanasi with the prayer to enlarge the applicant-accused on bail.
4. According to prosecution version, on 05.05.2023 a first information report was lodged against Amzad, Shamsheer, Afsar, Saifuddin and one unknown person, vide crime no.93/2023 at P.S. Jansa, District Varanasi. The co-accused Abhishek Verma was posted as sub-inspector in the police station and he was investigating the said crime no.93/2023. It was alleged that the co-accused Abhishek Verma was threatening the accused persons that he would enhance the gravity of the matter by adding more sections and on that account, he was demanding Rs.1,00,000/- from the accused persons of that case. The specific demand of Rs.1,00,000/- was made from one of the accused, namely, Amzad.

The said accused Amzad reported the matter to the Anti Corruption Wing of the police and thereafter, a trap team was prepared and on 11.05.2023, the co-accused sub inspector Abhishek Verma along with applicant was apprehended by the members of trap team, while the de-facto complainant has given an amount of Rs.1 lakh to the applicant at instance of co-accused Abhishek Verma.

5. It has been argued by learned counsel for the applicant-accused that applicant-accused is innocent and he has been falsely implicated in this case. As per prosecution version, the alleged demand of Rs.1 lakh was being made by co-accused sub inspector Abhishek Verma from the de-facto complainant for helping him in a criminal case, which was being investigated by co-accused sub inspector Abhishek Verma. The applicant is not a public servant and that there is no such evidence that he was involved in any manner in alleged demand of money from the de-facto complainant. Learned counsel submitted that as per prosecution version, the applicant was merely accompanying co-accused sub inspector Abhishek Verma and that at the instance of co-accused Abhishek Verma, the de-facto complainant has handed over the alleged amount to the applicant. Referring to the facts of the matter it was submitted that even from prosecution version it appears that applicant has been used as tool in the incident and in fact the actual beneficiary of the alleged bribe amount is co-accused sub inspector Abhishek Verma. The demand of illegal gratification was also attributed to him. Learned counsel submitted that applicant is a 23 years old young boy and that now he is languishing in jail since 12.05.2023, having no criminal history, and that investigation of the case is already complete and charge-sheet has already been filed. It was submitted that in case the applicant-accused is released on bail, he will not misuse the liberty of bail and will co-

operate in trial.

6. Learned A.G.A. has opposed the prayer for bail and submitted that though, the alleged demand was made by co-accused sub inspector Abhishek Verma but the alleged amount was given to the applicant at the instance of co-accused sub inspector Abhishek Verma and thus, he was involved in the incident.

7. Considering the submissions of learned counsel for the parties, nature of accusations, period of custody and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that a case for bail is made out. Hence, the bail application is hereby **allowed**.

8. Let the applicant-accused **Shivam Singh** involved in aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:

(i) The applicant-accused shall not tamper with the evidence during the trial.

(ii) The applicant-accused shall not pressurize/ intimidate the prosecution witness.

(iii) The applicant-accused shall appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant-accused shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(v) The applicant-accused shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade them from disclosing such facts to the Court or to any police officer or tamper with the evidence.

9. In case of breach of any of the above condition, the Court concerned shall be at liberty to cancel bail of applicant-accused in accordance with law.

Order Date :- 16.11.2023

Neeraj