

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33209 of 2023

Applicant :- Ummed Ali

Opposite Party :- State of U.P.

Counsel for Applicant :- Nipun Singh, Vivek Chaubey

Counsel for Opposite Party :- G.A.

Hon'ble Raj Beer Singh, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the entire record.

2. The present second bail application has been filed by the applicant in Case Crime No. 34 of 2019, under Sections 420, 467, 468, 471, 120-B IPC and Section 8 of Prevention of Corruption Act, Police Station E.O.W., District Meerut with the prayer to enlarge the applicant on bail. The first bail application of applicant was rejected by this Court on merits, vide order dated 01.03.2023.

3. It has been argued by learned counsel for the applicant that the applicant-accused is innocent and he has been falsely implicated in this case. It was submitted that at the relevant time applicant was working as Principal of the Madrasa Jamia Abdul Hamid Jasad Sultan Nagar, Meerut. As per prosecution version, in the year 2010-2011 a grant of Rs. 10,98,000/- was provided to the said college for scholarship of the Pre-Matric students of the Madrasa but the applicant in connivance with co-accused persons/officials of Minority Welfare Department, misappropriated the said funds and did not distribute the same amongst the students. Learned counsel submitted that the prosecution case is based mainly on the ground that the said scholarship amount has not been transferred into the accounts of students, whereas, at that time there was no such provision. Learned counsel submitted that by the guidelines

of the Ministry of Minority Affairs, which were made effective from 01.04.2008, it was provided that 'maintenance allowance will be credited to the student's bank account. Efforts will be made for transferring it electronically through the banks' but there was no such mandatory direction that the scholarship amount has to be transferred to the bank accounts of the students and the Government Order that the amount of scholarship amount has to be transferred into the accounts of students, was issued on 13.08.2012, whereas in the instant matter, the incident relates to the academic session 2010-2011. It is further submitted that the said scholarship amount received in the said college was distributed amongst the eligible students in cash.

4. It was further submitted that first bail application of applicant was rejected by this Court vide order dated 01.03.2023 and thereafter the applicant has been granted bail in similar other cases, by this Court as well as by co-ordinate Bench of this Court. Further, investigation is complete and charge-sheet has already been submitted and now, the applicant is in judicial custody since 28.10.2022 and thus, he has already undergone the detention of about one year. Lastly, it was submitted that in case, applicant is enlarged on bail, the applicant will not misuse the liberty of bail.

5. Learned A.G.A. has opposed the prayer for bail and submitted that applicant was working as Principal in the said Madrasa and that an amount of Rs. 10,98,000/- was provided to the said Madrasa for scholarship of pre-matric students. The contention that scholarship amount was paid in cash to the students is wholly false. Learned AGA pointed out that as per Government Order dated 01.04.2008, 'the course fee/tuition fee has to be credited to the school's/institute's bank account. Efforts will be made for

transferring it electronically through the banks.' It was further provided in the said G.O. that 'maintenance allowance will be credited to the student's bank account and efforts have to be made for transferring it electronically through the banks' but the said direction was not followed by the applicant and co-accused persons and the fund of Rs. 10,98,000/- provided for scholarship of pre-matrix students was misused and embezzled. It is submitted that in the similar way in other institutions also, applicant has embezzled the scholarship amount. However, it could not be disputed that now applicant has already undergone the detention of about one year.

6. Considering the submissions of learned counsel for the parties, facts of the case, nature of allegations, 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 opinion that a case for bail is made out. Hence, the present second bail application is hereby allowed.

7. Let the applicant **Ummed Ali** involved in the aforesaid crime be released on bail on furnishing a personal bond and two local sureties each of the like amount to the satisfaction of court concerned subject to the following conditions:

- i. The applicant will not tamper with the evidence during trial.
- ii. The applicant will not pressurize/intimidate the prosecution witnesses.
- iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
- iv. The applicant will not try to contact, threat or otherwise

influence the complainant or any of the witness of the case.

8. In case of breach of any of the above condition, the trial court shall be at liberty to cancel the bail of applicant in accordance with law.

Order Date :- 28.10.2023

Anand