

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35958 of 2023

Applicant :- Vishal Khanna

Opposite Party :- State of U.P.

Counsel for Applicant :- Prashant Kumar,Deepak Rana

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain,J.

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

This second bail application has been filed on behalf of applicant in Case Crime No. 12 of 2023, under Sections 420, 379, 411 I.P.C., Police Station Lalpur/Pandeypur, District Varanasi with the prayer to enlarge the applicant on bail. The first bail application of the applicant has been rejected by this Court vide order dated 12.06.2023.

It has been argued by learned counsel for the applicant that applicant is innocent and he has been falsely implicated in the present case. It is further submitted that the alleged recovery of Scooty from the possession of the applicant is shown in the recovery memo while the applicant is registered owner of the same. During arguments of the first bail application, the relevant record relating to the ownership of the vehicle was not brought on record. The record with regard to the ownership of the aforesaid scooty filed alongwith the second bail application indicates that applicant is the registered owner of the same. It is also submitted no A.T.M. or any cash amount has been recovered from the possession of the applicant. There is no C.C.T.V. footage which can indicate that applicant withdrew the money from the A.T.M. of the informant. It is also submitted that as per the allegation of prosecution, applicant withdrew the money from 29.11.2022 to 02.12.2022 from the A.T.M. of the informant but no complaint was made to the bank or any authority. It is also submitted that no golden ring was recovered from the possession of the applicant. It

is further submitted that applicant has criminal history of eight cases which has been explained in para-23 of the affidavit filed in support of bail application. It is further submitted that applicant is languishing in jail since 17.01.2023 and that in case he is released on bail, he will not misuse the liberty of bail and will cooperate in trial.

Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail but he could not dispute the aforesaid aspect of the matter.

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence and all attending facts and circumstances of the case, without expressing any opinion on 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.

Let the applicant **Vishal Khanna** in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). The applicant 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 him from disclosing such facts to the Court to any police officer or tamper with the evidence.

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

Order Date :- 28.10.2023

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