

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38589 of 2023

Applicant :- Aakib Ansari

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Anand Pati Tiwari, learned counsel for the applicant and Sri Deepak Kumar Singh, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 223 of 2023, under Sections 323, 392, 504, 506, 411 of I.P.C., Police Station Fafund, District Auraiya, during the pendency of trial.
4. As per prosecution story, the FIR was instituted against two unknown persons travelling in a scooty no. UP79 Y 4238 of having robbed the informant of Rs.67,000/-, who is travelling in a taxi, on 21.06.2023 at about 10:10 PM.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR. The FIR was instituted after a delay of about 18 hours and there is no explanation of the said delay caused. His name has come up later on in the subsequent statement of informant. The said delay in naming the applicant speaks volumes of the falsity of the case. Learned counsel has further stated that the criminal history of applicant has been explained in para-18 of the affidavit. Two cases i.e. Case Crime Nos.322 of 2020 and 323 of 2020 were instituted against him one at the same time in a police party firing case and in the said cases, no one has sustained any injuries and the said orders have not been annexed. In all eight cases have been foisted upon him and he is on bail in the said cases. In support of his submission, learned counsel has placed much reliance upon the judgement of ***Prabhakar Tewari Vs. State of U.P. and Another, 2020 (11) SCC 648***, the Apex Court has observed that pendency of several criminal cases against an accused may itself cannot be a basis for refusal of bail.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further stated that the co-accused Monu Agnihotri @ Abhay Agnihotri has already been enlarged on bail by coordinate Bench of this Court vide order dated 11.08.2023 passed in Criminal Misc. Bail Application No.35414 of 2023. The applicant is languishing in jail since 07.07.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Per contra, learned A.G.A. and learned counsel for the informant have vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the 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**.

9. Let the applicant- **Aakib Ansari** involved in aforementioned case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

i. The applicant will not tamper with the evidence during the trial.

ii. The applicant will not pressurize/ intimidate the prosecution witness.

iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

iv. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

v. 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 or to any police officer or tamper with the evidence.

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

11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.

12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 27.10.2023
Siddhant