

Court No. - 73

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38569 of 2023

Applicant :- Suraj Kumar Bind

Opposite Party :- State of U.P.

Counsel for Applicant :- Shiv Kumar Kesari

Counsel for Opposite Party :- G.A.

Hon'ble Nalin Kumar Srivastava,J.

Supplementary affidavit has been filed by learned counsel for the applicant in Court today, which is taken on record.

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

It is submitted by the learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. He has not committed the present offence. He has no concern with the present matter. It is further submitted that robbery was committed by unknown persons and the F.I.R. was lodged. It was disclosed during investigation that the whole incident of alleged robbery was false and no robbery was committed by accused-applicant and the informant was himself arrayed as accused and the case was converted under Sections 409, 177, 201, 203 I.P.C. The accused-applicant at that time was working as Collection Agent in Bharat Financial Inclusion Ltd. It is further submitted that the Branch Manager of the concerned bank in connivance with the police has falsely implicated the present applicant in this case. The present accused-applicant is only a collection agent and he had to do only general works of the bank and the informant of the case is himself working as Branch Manager of the bank and he is duty bound to maintain the accounting of the bank. It is also submitted that the whole story of recovery is false and fabricated. The police did not record the statement of any independent person of the locality or of the landlord. It is further submitted that applicant is having no criminal history to his credit. There is no independent witness of the incident. Applicant has been languishing in jail since 02.08.2023 and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the trial.

On the other hand, learned A.G.A. opposed the prayer for bail.

It reveals from the perusal of record that the applicant has not been arrested on spot and his name came to light on the basis of statement of co-accused, who were arrested on spot, and incriminating articles were recovered from their possession. Criminal history of two cases under minor offence has been pointed out. The applicant has not been identified by the informant / victim, rather it is said that when the accused persons were talking to each other by their name, he came to know the name of the present applicant. Applicant is said to be in jail since 02.08.2023. Grounds taken in the bail application are sufficient. Hence, keeping in view the nature of the offence, evidence, complicity of accused, severity of punishment, submissions of the learned counsel for the parties, the dictum of Apex Court in the case of **Dataram Singh vs. State of U.P. and another, (2018) 3 SCC 22** and 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.

Let the applicant Suraj Kumar Bind involved in Case Crime No.161 of 2023 under Sections 409, 177, 201, 203 IPC, Police Station Industrial Area, District -Prayagraj 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. Further, before issuing the release order, the sureties be verified.

1. The applicant will not tamper with the evidence during the trial.
2. The applicant will not pressurize/ intimidate the prosecution witness.
3. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
4. The applicant shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.
5. 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.

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

Submission and observation recorded in the matter are only for the purpose of deciding the bail application. Trial court shall not be influenced in any way with the said observation / submission while deciding the trial.

Order Date :- 26.10.2023

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