Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39704 of 2023

Applicant :- Shivam Yadav @ Divyank
Opposite Party :- State of U.P.
Counsel for Applicant :- Akhilesh Kumar Mishra
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.

2. Heard Sri Akhilesh Kumar Mishra, learned counsel for the applicant and Sri Sunil Kumar, learned A.G.A. for the State and perused the record.

3. Applicant seeks bail in Case Crime No. 461 of 2023, under Sections 394 & 411 of I.P.C., Police Station Dhanghata, District Sant Kabir Nagar, during the pendency of trial.

4. As per prosecution story, the FIR was instituted against unknown person of having attempted to rob a motorcycle no. UP58 AD 2337 of the informant.

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. His name has come up in his own confessional statement after the arrest in the present case which is not admissible in law.

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. There is no previous criminal history of the applicant except ten cases instituted at the time of his arrest in the present case. The applicant is languishing in jail since 19.07.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Per contra, learned A.G.A. has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicant and also the fact that the applicant has no previous criminal history.

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- **Shivam Yadav @ Divyank** 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 :- 13.10.2023
Siddhant

Digitally signed by :-
SIDDHANT SAHU
High Court of Judicature at Allahabad