

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43640 of 2023

Applicant :- Balwant Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Girish Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Girish Kumar Singh, learned counsel for the applicant, Sri R.M. Yadav, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.47 of 2022, under Sections 419, 420, 467, 468, 471, 323, 504, 506 and 406 I.P.C., Police Station Jhunsi, District Prayagraj, during the pendency of trial.
4. As per prosecution story, the applicant is stated to have taken Rs.5 lakhs from the informant for investment in various contracts across the State. The applicant is stated to have issued cheques to him which were dishonored, as such the applicant has committed forgery with him.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. The main accused person is Suresh Verma and the applicant has been made a scapegoat in it. Learned counsel has further stated that the case of Negotiable Instrument Act has been converted into criminal one. 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. The criminal history stands explained as he has been enlarged on bail in three cases but he is in jail in seven cases including the present one. The applicant is languishing in jail since 05.03.2021. In case, the applicant is released on bail, he will not misuse the liberty of bail.
6. Learned A.G.A. has vehemently opposed the bail application.

7. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, 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.

8. Let the applicant- **Balwant Singh**, who is involved in aforementioned case crime be released on bail on his furnishing a personal bond and two 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.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. 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 based on the testimony of the witnesses.

Order Date :- 13.10.2023

Ravi Kant

(Krishan Pahal, J.)