

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41182 of 2023

Applicant :- Vikas Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Shoeb Khan

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Mohd. Shoeb Khan, learned counsel for the applicant and Sri Shatrughna Yadav, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 572 of 2022, under Sections 392, 120-B, 411 IPC, Police Station- Kotwali, District- Fatehpur, during pendency of the trial in the court below.

3. Learned counsel for the applicant submitted that this is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit by this Bench on 05.01.2023 and he is pressing the instant second bail application on the following two grounds.

4. He further submitted that the first ground is that at the time of disposal of the first bail application, some incorrect facts have been mentioned in the order dated 05.01.2023. He further submitted that while rejecting the first bail application, this Bench observed that however, co-accused Sachin has been released on bail but his case is distinguishable from the case of applicant as from his possession Rs. 4,63,000/- were recovered and from the possession of applicant Rs. 9,26,000/- were recovered but in fact from the possession of co-accused Sachin also Rs. 9,26,000/- were recovered and, therefore, case of applicant is at par with co-accused Sachin.

4. He further submitted that the second ground is that all the offences are triable by Magistrate-1st Class and applicant is in jail since 17.08.2022 i.e. for last more than a year. He further submitted that charges were framed against the applicant on 26.04.2023 and since then more than six months have been passed but till date trial of the case could not be concluded. He further

submits, by virtue of Section 437(6) Cr.P.C. it is mandatory to the trial court to decide the trial within six months from the date of first date fixed for evidence and therefore, there is also violation of provisions of Section 437(6) Cr.P.C.

5. He further submitted that applicant is not having any criminal history to his credit.

6. Per contra, learned AGA however, opposed the prayer for bail but could not dispute the fact that from the possession of applicant and co-accused Sachin both Rs. 9,26,000/- were recovered but due to mistake in the order dated 05.01.2023 passed on the first bail application of the applicant, it has been transcribed that from the possession of co-accused Sachin Rs. 4,63,000/- were recovered.

7. He further could not dispute the fact that applicant is not having any criminal history and he is in jail since August, 2022 i.e. for last more than one year. He further could not dispute the fact that charges against the applicant were framed on 26.04.2023 and since then more than six months have been passed but till date, trial of the case could not be concluded.

8. I have heard learned counsel for the parties and perused the record of the case.

9. This is the second bail application filed on behalf of the applicant and his first bail application was dismissed on merit by this Court on 05.01.2023 but from the order dated 05.01.2023 passed by this Court, it reflects that even at the time of hearing of the first bail application of the applicant, co-accused Sachin had already been released on bail but it has been noted in the order dated 05.01.2023, from his possession Rs. 4,63,000/- were recovered however, from the possession of applicant Rs. 9,26,000/- were recovered, therefore, no benefit can be extended to the applicant on the ground that co-accused Sachin has been released on bail but from the record, it reflects that even from the possession of co-accused Sachin Rs. 9,26,000/- were recovered, therefore, some incorrect facts have been mentioned in the order dated 05.01.2023 passed by this Court on the first bail application of the applicant and it reflects that case of applicant was at par with co-accused Sachin.

10. Further, all the offences are triable by Magistrate-1st Class and applicant is in jail since 17.08.2023 i.e. for last more than one year. Further, however, charges were framed against the applicant on 26.04.2023 but till date trial of the case could not be concluded,

therefore, there is violation of Section 437(6) Cr.P.C. as since framing of the charges more than six months have been passed.

11. Therefore, considering the facts and circumstances of the case discussed above, particularly the fact that co-accused Sachin had already been released on bail and case of applicant is at par with him and applicant is in jail for last more than a year, in my view applicant is entitled to be released on bail.

12. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

13. Let the applicant- **Vikas Singh** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

14. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

15. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 6.12.2023

KK Patel