

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44489 of 2023

Applicant :- Mukesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Arvind Kumar Shah, learned Advocate holding brief for Sri Amit Kumar, learned counsel for the applicant as well as Sri Yogesh Kumar, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in S.T. No. 382 of 2022, Case Crime No. 391 of 2021, U/S 404 IPC, Police Station Mundhapande, District Moradabad, during the pendency of trial.
4. 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. He has further stated that the applicant was granted bail in the said case crime number vide order dated 24.7.2023 of a co-ordinate Bench of this Court u/s 302, 201, 34 IPC. It is next stated that inadvertently, Section 404 IPC could not be mentioned in the said bail application moved before the Special Judge, S.C./S.T. Act, Moradabad, as such, the applicant may be enlarged on bail in the added Section of 404 IPC also.
5. 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 applicant is languishing in jail since 20.12.2021. 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 but has not disputed the aforesaid submissions of learned counsel for the applicant.

7. Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, larger mandate of the Article 21 of the Constitution of India and as the applicant is on bail in the present case vide order dated 24.7.2023 u/s 302, 201, 34 IPC, without expressing any opinion on the merits of the case, this Court find it a fit case to release the applicant in the added Section of 404 IPC also. The bail application is allowed.

8. Let the applicant- **Mukesh**. 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 not tamper with evidence.

(ii) 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.

(Justice Krishan Pahal)

Order Date :- 30.10.2023

Shalini