Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45622 of 2023

Applicant :- Ankit
Opposite Party :- State of U.P.
Counsel for Applicant :- Yadvendra Singh
Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.

2. Heard learned counsel for the applicant as well as Sri Yogesh Mishra, learned A.G.A. for the State and perused the material placed on record.

3. Applicant seeks bail in Case Crime No. 473 of 2023, U/S 395, 412 IPC, Police Station Soron, District Kasganj, during the pendency of trial.

4. As per prosecution story, three unknown persons are stated to have robbed the e-rikshaw owner of his belongings from the tool box of the e-rikshaw on 4.9.2023.

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. He has further stated that he is not named in the FIR. In all, five accused persons including the applicant were arrested by the police and from their possession, certain recovery has been made. Learned counsel has also stated that the said recovery stands falsified on the ground that it is alleged in the FIR that there were three persons, rather the police had arrested five persons.

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. It is further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 5.9.2023. In case, the

applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. has vehemently opposed the bail application but has not disputed the fact that there is no criminal history of the applicant.

8. 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 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- **Ankit** 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.

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

11. 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

Digitally signed by :-
SHALINI JAISWAL
High Court of Judicature at Allahabad