

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46059 of 2023

Applicant :- Deepak

Opposite Party :- State of U.P.

Counsel for Applicant :- Birendra Singh Khokher

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant as well as learned A.G.A. and perused the record.
2. The FIR in question was lodged alleging that on the basis of a search carried out certain incriminating materials such as marks-sheet etc. were recovered from the premise and based upon the said recovery, the applicant along with other co-accused were arrested.
3. The contention of the counsel for the applicant is that there is no allegation against the applicant-accused of being involved in any fraudulent preparation of the marks-sheet. Merely, because of the recovery of marks-sheet, laptop and printer etc., the offence in question has been lodged against the applicant. He argues that even the recovery is not in terms of the Section 100 Cr.P.C. from the perusal of the FIR, it appears that on the basis of recovery and confessional statement, the entire case has been instituted against the applicant. Apart from the said confessional statement, prima facie, there is no material to suggest that the applicant had in any way duped in person, leading to an offence under Sections 419, 420, 467, 468 and 171 IPC.
4. As regards the criminal antecedents, the applicant has filed a supplementary affidavit stating that in one of the cases against the applicant, final report has been filed. The said supplementary affidavit is taken on record.
5. Learned A.G.A. vehemently opposed the bail prayer.
6. Considering the said submissions and on perusal of the FIR, the same has been instituted solely based upon the confessional statement and recovery which is, prima facie, contrary to the

mandate of Section 100 Cr.P.C., as such, the applicant who is in custody since 22.07.2023 is enlarged on bail.

7. Accordingly, the bail application is allowed.

8. Let the applicant **Deepak** be released on bail in FIR/ Case Crime No. 591 of 2023, under Sections 419, 420, 467, 468, 471 IPC, P.S. Baghpat, District Baghpat, on his furnishing personal bonds and two reliable sureties of Rs. 25,000/- each to the satisfaction of the court concerned with the following conditions:

(a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and

(c) 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.

Order Date :- 1.11.2023

S.A.