

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47054 of 2023

Applicant :- Mohit Jain

Opposite Party :- State of U.P.

Counsel for Applicant :- Vikas Srivastava

Counsel for Opposite Party :- G.A.,Omar Zamin

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State-opposite party, and Sri Omar Zamin, learned counsel for the informant.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 240 of 2023, under Sections 420, 406, 467, 468, 471, 506, 120-B I.P.C., Police Station Salimar Garden, District Ghaziabad during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. Purely business transaction between the parties has been given colour of criminal case. It is next contended that the informant had transferred Rs.10 lakhs in the account of the applicant and further at the instance of the applicant Rs.80,000/- was also transferred by one Manish Kaushal in the account of the applicant. The said amount along with interest has been returned by the applicant to the informant. It is next contended that at this stage there is no cogent evidence to establish that the applicant has received certain amount in cash also. Further, in a writ petition filed by co-accused Nagendra Kumar, being Criminal Misc. Writ Petition No. 15746 of 2023, Nagendra Kumar v. State of U.P. and others, after hearing learned counsel for the informant, the matter has been referred to the Mediation Centre of this Court for conciliation and the matter is still pending before the said Centre. The criminal history of the applicant has been explained in Paragraph-18 of the affidavit and Paragraph-2 of the supplementary affidavit. The applicant is in jail since 25.09.2023 and if he is released on bail, he will not misuse

the said liberty.

5. Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicant and the informant were engaged in business transaction. An amount of Rs.12 lakhs has been returned by the applicant to the informant. At this stage there is no substantive evidence against the applicant. Further, the matter has already been referred to the Mediation Centre of this Court for conciliation and the matter is still pending. Moreover, the applicant has remained confined for almost one and half months and after submission of the charge-sheet there is no hope of early conclusion of trial, and no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- Mohit Jain, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 17.11.2023

SKT/-