

Court No. - 85

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47364 of 2023

Applicant :- Raj Kumar

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Tripurari Pal

Counsel for Opposite Party :- G.A.

Hon'ble Mayank Kumar Jain,J.

This is a second bail application. The first bail application was rejected vide order dated 18475 of 2023 in Criminal Misc. Bail Application No. 18475 of 2023.

Heard learned counsel for the applicant and learned A.G.A.for the State and perused the record.

The instant bail application has been filed on behalf of the applicant with a prayer to release him on bail in Case Crime No. 74 of 2023, under Sections 328, 354, 354Gha, 452 IPC and Section 7/8 POCSO Act, Police Station Zareef Nagar, District- Budaun, during pendency of trial.

Learned counsel for the applicant has submitted that applicant has been falsely implicated in the present case due to ulterior motive. It is further submitted that incident is said to have been taken place on 20.2.2023 but the first information report of the case has been lodged after delay of four days while there is no explanation of such inordinate delay. It is further submitted that similarly placed co-accused, namely, Yagya Priya has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 13.10.2023 in Criminal Misc. Bail Application 18485 of 2023. It is further submitted that applicant is also entitled to be released on bail. Lastly, it is submitted by learned counsel for the appellant that there is no chance of the appellant fleeing away from the judicial process or tampering with the prosecution evidence. The appellant is languishing in jail since 25.03.2023 having no criminal history and in case he is released on bail, he will not misuse the liberty of bail and will cooperate in the early disposal of the case.

Learned A.G.A. has opposed the bail prayer of the applicant but could not dispute the aforesaid facts.

Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties, nature of evidence

and all attending facts and circumstances of the case, without expressing any opinion on 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.

Let the applicant Raj Kumar in the aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of court concerned subject to the following conditions:

- (1). The applicant will not tamper with the prosecution evidence during the trial.
- (2). The applicant will not influence any witness.
- (3). The applicant will appear before the trial Court on the date fixed, unless personal presence is exempted.
- (4). 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 to any police officer or tamper with the evidence.

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

Order Date :- 6.12.2023

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