

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48574 of 2023

Applicant :- Ashish Tiwari

Opposite Party :- State of U.P. and Another

Counsel for Applicant :- Varad Nath

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri Rupak Chaubey, learned A.G.A. for the State and perused the record.

2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 147 of 2023, under Sections 420, 406, 379, 409, 467, 468, 471, 204, 120-B I.P.C., Police Station- Kotwali Nagar, District- Etah during pendency of the trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The applicant was posted as Branch Manager at the concerned branch from 17.8.2021 to 18.4.2022. During the said period an amount of Rs.89000/- was only withdrawn from the account of the informant. It is contended that the said amount was transferred in the account of one Ravi Kumar. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. Further an inquiry has been ordered by the higher officials of the bank The applicant is participating in the said inquiry. Counsel for the applicant has also drawn the attention of the court towards the letter of the informant dated 6.10.2023. In the said letter the informant states that she has received the amount and has no complaint against the bank. It is next submitted that the applicant being an employee of the bank shall not abscond. Similar FIRs were also lodged against the applicant and in the said cases the applicant has been granted bail by this Court. The applicant is in jail since 28.7.2023. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant was not

named in the first information report. No amount has been credited in the account of the bank. The applicant is not a beneficiary of the illicit transaction. The applicant being an employee of the bank is not likely to abscond. Further the applicant has presently remained confined for more than four months and there is no hope of early conclusion of trial, more so when 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 intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Ashish Tiwari** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

7. 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 :- 6.12.2023
S.S.