

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48673 of 2023

Applicant :- Prashant @ Shivam

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Singh Sengar, Ajay Singh Sengar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Ajay Singh Sengar, learned counsel for the applicant, Sri Shashi Kant Rai, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 103 of 2023 under Sections- 408, 420 and 506 I.P.C., Police Station-Fafoond, District-Auraiya, during the pendency of trial.
4. As per prosecution case, Manager of the petrol pump of the informant Rajveer Singh in collusion with one co-accused person Ankit Yadav and the applicant who happens to be the salesman are stated to have usurped the amount of Rs. 35,07,194/- of the petrol pump.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and he has nothing to do with the said offence. Learned counsel has stated that the allegations of procuring two plots and one eco car are based on vague allegations as there is nothing on record to suggest that the said purchasing has been conducted by the applicant from the tainted money garnered from the proceeds of the petrol pump. It is further stated that there is no criminal history of the applicant. There are general allegations against the applicant and other sales persons. The applicant has been made a scapegoat by the informant. The perpetrator of the crime are Rajveer Singh and Ankit Yadav. The case of the applicant is at different footing to Rajveer Singh and Ankit Yadav. The applicant is languishing in jail since 16.10.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.
6. Per contra, learned A.G.A. has vehemently opposed the bail application on the ground that the applicant was hands in glove with the other co-accused persons although the allegations against

him are of general in nature. The main perpetrator of the crime are Rajveer Singh and Ankit Yadav. Learned A.G.A. has further stated that subsequent to the present F.I.R. a case under U.P. Gangster Act has been instituted against the applicant.

7. After hearing the parties and taking into consideration that no overt act has been assigned to the applicant regarding his collusion with the main accused persons Rajveer Singh and Ankit Yadav coupled with the fact that the applicant has no previous criminal antecedent, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

8. Let the applicant- **Prashant alias Shivam** 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.

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

10. 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.

Order Date :- 16.11.2023

Kumar Manish.

(Krishan Pahal,J.)