

Court No. - 71

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49060 of 2023

Applicant :- Man Singh Yadav @ Pappu

Opposite Party :- State of U.P.

Counsel for Applicant :- Shri Krishan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Shekhar Kumar Yadav,J.

1. Heard Mr. Shri Krishan Yadav, learned counsel for the applicant, learned AGA for the State and perused the material available on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant seeking enlargement on bail in Case Crime No.395 of 2023, under Sections 381 and 420 IPC, Police Station Sihani Gate, District Ghaziabad.

3. I have perused the prosecution story as set up in the impugned first information report and also the bail rejection order.

4. Learned counsel for the applicant submits that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. The applicant has never committed any offence as alleged in the first information report. As per allegation, the applicant has fraudulently withdrawn Rs.5.60 lakh from different dates from the account of the informant whereas the real fact is that the applicant was working as servant for the last 30 years in the house of the informant, who is Bua of the applicant but the informant has not paid any salary to the applicant. The informant herself has allowed the applicant to take his salary from her account, therefore, the applicant withdraw the aforesaid amount from the account of the informant but due to misunderstanding the applicant has been falsely implicated. He further submits that applicant is having no criminal history as has been mentioned in paragraph 18 of the affidavit and in case the applicant is released on bail, he will not misuse the liberty of bail. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been touched upon at

length. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required. The applicant is in jail since 29.07.2023.

5. On the other hand, learned A.G.A. opposes the application for bail.

6. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

7. Let the applicant-**Man Singh Yadav @ Pappu**, 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 file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) 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.

(v) The Trial Court may make all possible efforts/endeavour and try to conclude the trial within a period of one year after the release of the applicant.

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

9. 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 :- 4.12.2023

Ajeet