

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49573 of 2023

Applicant :- Ranjan @ Shivesh Agnihotri

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajeev Kumar Singh Parmar

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
3. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.506 of 2023 under Sections 420, 467, 468, 471, 411, 413 IPC Police Station Fatehgarh District Farrukhabad.
4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The recovered motorcycle belongs to his brother. The motorcycle was purchased by the brother of the applicant from one Gaurav Singh. The aforesaid Gaurav Singh has executed agreement to sale of his motorcycle in favour of the real brother of the applicant. It is further submitted that several motorcycles are alleged to have been recovered at the pointing out of different persons with the same recovery memo. The recoveries

were made from the joint pointing out of all the accused persons. There is no public witness to the alleged recoveries. It is further submitted that view parts of motor vehicles were also shown from the possession of the applicant which are planted on the applicant by the police authorities to show their proficiency. The applicant was arrested from his house one day before and when the complaint was made on the portal by email the applicant was implicated in the instant case with malicious intention. The applicant has no criminal history apart from the instant case as disclose in paragraph-18 of the affidavit filed in support of the bail application. Identically situated co-accused Satendra @ Sani has already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No.50138 of 2023, vide orders dated 28.11.2023. The applicant is seeking parity in relief granted to the aforesaid co-accused. The applicant is languishing in jail since 19.10.2023, in case he is enlarged on bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

5. On the other hand, learned AGA has opposed the prayer for bail and submitted that the applicant is a member of a gang who were involved in theft of motorcycle and to sell them after dismantlement them.

6. Considering the facts and circumstances of the case and taking

into account that one motorcycle is said to have been recovered from the applicant which belongs to the brother of the applicant, there is no public witness to the recovery of motorcycle alleged to have been recovered at the pointing out of the accused collectively, the applicant has no criminal history apart from this case the and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

7. The bail application is allowed.

8. Let applicant-Ranjan @ Shivesh Agnihotri be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates 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 of the Indian Penal Code.

(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. is issued and the 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 of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) 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 applicant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

(vii) The applicant shall execute an undertaking to the effect that he will not involve himself in any other case of like nature and if

he is found involved in any other cases of like nature, his bail shall stand automatically cancelled and the court below shall be at liberty to take coercive action against the applicant.

(Renu Agarwal,J.)

Order Date :- 30.11.2023

Nadeem