

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49908 of 2023

Applicant :- Swami Shankar Alias Summa

Opposite Party :- State of U.P.

Counsel for Applicant :- Niklank Kumar Jain, Amit Daga

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

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

The present first bail application has been filed on behalf of the applicant in Case Crime No. 655 of 2023, under Sections 420, 467, 468, 471 & 120-B I.P.C., Police Station- Tundala, District- Firozabad with the prayer to enlarge him on bail, during the pendency of trial.

Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. Applicant was not named in F.I.R. The name of applicant came into light in the confessional statement of co-accused Firoz Khan. It is further submitted that forged Aadhar Card has been recovered from the possession of applicant, has no connection with the present crime. Neither any amount has been credited in the account of applicant nor applicant is beneficiary of the said transaction. Only the role of applicant is conspiracy with the co-accused. Criminal history of five cases have been explained in para 31 of the affidavit in support of bail application. In Case Crime No. 201/2008 & 235/2008, applicant has been enlarged on bail by court below. In Case Crime No. 632/2018, applicant has been enlarged on bail by this Court. Copy of bail order has been annexed as Annexure-11 of the affidavit. In Case Crime No.

504/2020, no charge sheet has been submitted. In Case Crime No. 595/2022, applicant has been enlarged on bail by this Court. Copy of bail order has been annexed as Annexure-12 to the affidavit. Applicant is languishing in jail since 11.09.2023 and if he is granted the liberty of bail he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds.

On the other hand, learned AGA has opposed the prayer of bail but could not controvert the aforesaid arguments as advanced by learned counsel for the applicant.

Considering the fact that the applicant was not named in F.I.R. The name of applicant came into light in the confessional statement of co-accused Firoz Khan. It is further submitted that forged Aadhar Card has been recovered from the possession of applicant, has no connection with the present crime. Neither any amount has been credited in the account of applicant nor applicant is beneficiary of the said transaction. Only the role of applicant is conspiracy with the co-accused. Criminal history of five cases have been explained in para 31 of the affidavit. Applicant is languishing in jail since 11.09.2023 and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail. The case of the applicant is distinguished from the remaining co-accused.

Let applicant **Swami Shankar Alias Summa** be released on bail in the above case crime number and 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.

(Renu Agarwal, J.)

Order Date:- 30.11.2023

Sharad/-