

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50762 of 2023

Applicant :- Shivam Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Rakesh Kumar

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 application for bail has been filed seeking bail in Case Crime No.354 of 2023, under sections 420, 392, 411 IPC, Police Station Khandauli, District Agra.

Learned counsel for the accused-applicant submitted that the applicant has been falsely implicated in the present case due to ulterior motive, on the basis of false and planted recovery. It is submitted that there is no public witness of the alleged recovery. It is further submitted that money which has been shown to be recovered from the applicant belongs to him which he was to use in expenses for maintenance of car and fuel. It is submitted that applicant has criminal history of two cases which are explained in para no. 20 of the affidavit filed in support of bail application, however, no notice or summon has been served upon the applicant till date. It is further submitted that Investigating Officer has not recorded statement till date. There is no chance to the applicant in fleeing from the jurisdiction of this Court. The applicant is languishing in jail since 17.09.2023 and in case he is granted bail, he will not misuse the liberty and would cooperate in the trial proceedings.

On the other hand, learned AGA has opposed the prayer for bail and submitted that but could not controvert the above mentioned facts.

Considering the facts and circumstances of the case and taking into account the fact that there is no public witness of the alleged recovery, the case is triable by

the Magistrate, applicant undertakes that if he receives notice in two previous criminal cases which are explained in para 20 of the affidavit he shall appear before the court concerned and without expressing any opinion on merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

Let applicant **Shivam Yadav** 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.

(Renu Agarwal,J.)

Order Date :- 28.11.2023
Vikram