

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49985 of 2023

Applicant :- Sudheer @ Manoj

Opposite Party :- State of U.P.

Counsel for Applicant :- Atul Kumar Singh, Sanjay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

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

2. The present first bail application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No. 210 of 2023 under Sections 420, 467, 468, 471 I.P.C. Police Station Dhaulana, District Hapur with the prayer to enlarge him on bail.

3. 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. Allegations as per the F.I.R. is that informant was defrauded of Rs. 1,01,800/- by the accused persons on the pretext of providing a loan of Rs. 9,00,000/-. It is submitted that F.I.R. has been lodge after an inordinate of two years without any proper explanation. It is further submitted that the applicant is not the beneficiary of the alleged transaction. It is next submitted that six days before the registration of the present case, applicant was implicated in a case of similar nature in which he has been enlarged on bail by the court below itself and copy of the bail order is annexed as Annexure No. 2. It is contended that no amount is credited to

the account of the applicant in regard to Cheque Nos. 246876 and 246875 and amount is credited in the account of someone in Madhya Pradesh. It is next contended that apart from the cases show in the affidavit, applicant has no criminal history and he is languishing in jail since 28.09.2023, there is no chance of fleeing from the jurisdiction of this Court 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 and shall co-operate in the trial.

4. 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.

5. Considering the fact that the applicant is not the beneficiary of the alleged transaction, F.I.R. is lodged after a delay of one year and nine months from the date of incident, no direct role is assigned to the present applicant, applicant has criminal history of one case i.e. case crime No. 476 of 2023 in which offence is of similar nature in which he has been enlarged on bail, case is triable by Magistrate and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail.

6. Let applicant **Sudheer @ Manoj** 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 :- 6.12.2023

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