

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50933 of 2023

Applicant :- Toni Tripathi

Opposite Party :- State of U.P.

Counsel for Applicant :- Madan Lal Srivastava, Himanshu Srivastava

Counsel for Opposite Party :- G.A., Rajesh Yadav

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. for the State and perused the record.
3. There is no representation on behalf of the informant.
4. The present first bail application under Section 439 Cr.P.C. has been filed on behalf of the applicant in Case Crime No. 159 of 2022 under Sections 419, 420, 406, 323, 504, 506, 467, 468, 471 I.P.C. Police Station Lalganj, District Mirzapur with the prayer to enlarge him on bail.
5. 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 the applicant along with three co-accused have misappropriated a sum of Rs. 25,74,875/- on the pretext of providing job to the children of first informant in B.H.U. and gave forged appointment letters to them. When this fact came to the knowledge of the informant, he demanded his money back from the accused on which the accused abused the informant and also

assaulted the informant with kicks and punches and threatened to kill him. It is submitted that the alleged money dispute has been amicably settled between the parties by way of compromise deed dated 28.09.2023 out of the court. It is further submitted that the disputed amount of Rs. 9,00,000/- due to the applicant has been paid to the informant. It is contended that Rs. 1,00,000/- has been deposited in the account of the informant, Rs. 1,00,000/- has been given in cash and Rs. 7,00,000/- has been given in the form of Demand Draft. Photocopies of the demand draft, compromise deed and passbook entry dated 26.09.2023 has been brought on record by way of supplementary affidavit. Applicant is languishing in jail since 09.10.2023 having no criminal history to his credit and the case is triable by Magistrate. It is further contended that the parties have amicably settled their dispute by way of compromise vide compromise deed dated 28.09.2023, hence, the applicant may be granted the liberty of bail 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.

6. On the other hand, name of Mr. Rajesh Yadav, learned counsel is printed in the cause list, however, there is no representation on behalf of the informant.

7. Considering the fact that the parties have entered into compromise vide compromise deed dated 28.09.2023, amount in dispute has been paid to the informant, compromise deed dated 28.09.2023 and copy of Demand Draft is annexed with the supplementary affidavit, applicant is languishing in jail since 09.10.2023 having no criminal history to his credit, case is triable by Magistrate,

the applicant undertakes that he shall co-operate with the trial if he is released on bail and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail.

8. Let applicant **Toni Tripathi** 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 :- 5.12.2023

Karan