

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50905 of 2023

Applicant :- Rahul Vaid

Opposite Party :- State of U.P.

Counsel for Applicant :- Kaushal Kumar Pandey, Anand Ji Mishra

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. 84 of 2023 under Sections 307 I.P.C. and 3/25 and 5/27 Arms Act Police Station Railway Road, District Meerut 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 the police party were in search of accused in case crime No. 137 of 2023 when it receives an information through RT set that some suspected person in white coloured i-20 car are going towards Railway Road. Upon receiving the information police party tried to stop the alleged car but due to high speed the car become uncontrolled, when the car stopped, one person fired at the police party and other person managed to flee away. It is alleged that Rs. 3,00,000/- along with one country made pistol 315 bore, one live cartridge and one empty cartridge is said to have been recovered from the possession of the

applicant. It is submitted that alleged recovered money is his own money which was withdrawn by her mother from her bank account No. 10144986708. It is further submitted that Rs. 2,00,000/- has been withdrawn on 19.07.2023 and Rs. 93,000/- has been withdrawn on 24.08.2023 and passbook entry of the said transactions have been annexed as Annexure No. 2 to the affidavit filed in support of the bail application. It is next submitted that the said amount recovered was given to the applicant by her mother for business purpose. It is contended that there is no public witness of the alleged recovery and applicant has been implicated in the present case only on the basis of his confessional statement just to show the proficiency of the police. Applicant is languishing in jail since 24.08.2023 having no criminal history to his credit. It is lastly contended that there is no chance of fleeing from the jurisdiction of this Court and if applicant 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 was arrested when the police party was searching for the suspected persons in case crime No. 137 of 2023, applicant was implicated in the case on the basis of his confessional statement, amount so recovered from the applicant as is disclosed by the applicant was the amount of his mother which she withdrawn from her bank and photocopy of the pass-book to this

extent has been annexed as Annexure No. 2, there is no public witness of the alleged recovery, applicant is languishing in jail since 24.08.2023 having no criminal history to his credit and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail.

6. Let applicant **Rahul Vaid** be released on bail in the above case crime number on his furnishing a personal bond and two local sureties each in the like amount to the satisfaction of Court concerned, **applicant is also directed to deposit Rs. 50,000/- as cash surety at the time of his release to the satisfaction of the court concerned to ensure his presence during the trial. Since the address mentioned in the passbook of the mother of the applicant appears to be different from that of the address of the deponent, trial court is directed to verify the address of the applicant before his release to avoid the apprehension of applicant absconding.** The applicant shall comply with the following conditions after his release :-

(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

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