

Court No. - 8

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3893 of 2023

Applicant :- Vinay Talwar

Opposite Party :- State Of U.P. Thru. Secy. Home Lko.

Counsel for Applicant :- Parmanand Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Dinesh Kumar Singh,J.

1. Heard Sri Parmanand Gupta, learned counsel for the accused-applicant and Sri Brijendra Vikram Singh, learned A.G.A. and perused the record.

2. This is the third bail application. First bail application got rejected by this Court vide order dated 9.2.2021 passed in Criminal Misc. Bail Application No.78 of 2021.

3. The present application has been filed by the accused-applicant seeking bail in FIR No.501 of 2020, under Sections 379, 411, 413, 414, 419, 420, 467, 468, 471, 484 and 120-B IPC, Police Station Gomti Nagar, District Lucknow.

4. After rejecting the first bail application, the accused-applicant filed an application before the trial court and after the trial court rejected the bail application, the accused-applicant approached this Court by filing Criminal Misc. Bail Application No.8791 of 2022 styling it as “first bail application” of the accused-applicant before this Court. Believing in the averment made in the said bail application, a coordinate Bench of this Court enlarged the accused-applicant on bail vide order dated 5.8.2022. However, when it was noticed that it was not the first bail application, but it was the second bail application, an application for cancelling the order dated 5.8.2022 granting bail to the accused-applicant was moved being Criminal Misc. Bail

Cancellation Application No.112 of 2022 and, this Court vide order dated 2.3.2022 allowed the said application and recalled the order dated 5.8.2022 granting bail to the accused-applicant. Now, the accused-applicant has approached this Court by filing the present third bail application.

5. A large number of stolen cars were recovered, which were parked in different parking areas in Lucknow. After registration of the F.I.R., 62 more stolen vehicles were recovered. Registration numbers and chassis numbers of the vehicles along with their engine numbers and make have been given in the F.I.R. Previously name of the accused-applicant was not mentioned in the F.I.R. However, during the course of the investigation, accused-applicant's name has been surfaced as one of the key accused/gang member, who has been indulging in lifting the cars and after changing the numbers etc. of the damaged/scrapped vehicles, is selling these cars.

6. Learned counsel for the accused-applicant submits that the accused-applicant is in the business of sale and purchase of used vehicles for the last 37 years. He runs his business in the name and style of "M/s Car Exchange". The accused-applicant maintains the register in respect of purchase and sale of the vehicles through his firm and he has not been dealing with purchasing of total loss vehicles from the Insurance Company. He further submits that the accused-applicant has not involved in any manner in respect of sale and purchase of stolen vehicles. Accused-applicant was piked up on 18.6.2020, but his arrest has been shown to be on 21.6.2020. He also submits that police in order to protect their own accomplices, is framing innocent persons like accused-applicant in false and bogus cases. Out of 10 stolen vehicles allegedly recovered from the accused-applicant, seven vehicles were sold and purchased by the accused-applicant absolutely in accordance with law. He,

therefore, submits that accused-applicant is an innocent person, who has been falsely implicated, hence he is entitled to be enlarged on bail.

7. On the other hand, Sri Brijendra Vikram Singh, learned AGA has submitted that it is an international gang involved in the commission of the offence. This gang is operating not only in Lucknow and nearby districts but it is operating in the whole country and many stolen vehicles are sent outside the country like Nepal etc. He further submits that the police has recovered 112 stolen vehicles including luxurious cars so far. He further submits that many stolen vehicles are even used in anti national and terrorist activities. It has further been submitted that 10 stolen vehicles were recovered from the accused-applicant. The accused-applicant belongs to a gang, which is operating not only from Lucknow, but also from nearby districts. This gang would purchase the total loss vehicles from the Insurance Company and would transfer the registration number, engine number and chasis number etc. in the stolen vehicles and prepare the forged and fabricated documents. From this gang, four wheeler vehicles, such as Innova, Fortuner, Honda City, Innova Crysta, Hyundai, BMW etc. have been recovered and chasis number, engine number and registration number of these vehicles were changed in this manner. Besides 10 stolen vehicles, keys of nine other vehicles were also recovered from the accused-applicant. He, therefore, submits that looking at the heinousness of the offence committed by the accused-applicant and he being a key member of the gang involved in commission of the offence in stealing large number of vehicles, it is not an appropriate case where the accused-applicant should be enlarged on bail.

8. I have considered the submissions advanced on behalf of the learned counsel for the parties.

9. The menace of lifting vehicles is prevalent in the whole country. It may be true that many stolen vehicles are used in committing serious and heinous offences including terrorist and anti national activities. From perusal of the FIR itself, it is clear that 112 stolen vehicles have been recovered. The stolen vehicles recovered are of every make including luxurious vehicles. Accused-applicant's name and, his involvement in the commission of the offence is found as a key accused during the investigation, as such there is sufficient evidence available against him in the case diary. I, therefore, do not think it to be a fit case to enlarge the accused applicant on bail. Apart from it, bail applications of similar co-accused have been rejected by this Court vide orders dated 12.1.2021 and 25.1.2021.

10. Accused-applicant has been in jail since 21.6.2020 and the trial is yet to commence.

11. Considering the entire facts and circumstances of the case; long incarceration of the accused-applicant in jail and also the fact that other cases, which have been registered against the accused-applicant, are after the present offence and, other co-accused have been granted bail by this Court, it would be appropriate to enlarge the accused-applicant on bail.

12. Let applicant **Vinay Talwar** 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.

Order Date :- 24.5.2023

Rao/-