

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 4986 of 2023

Applicant :- Amit Pathak

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

Counsel for Applicant :- Shobh Nath Pandey, Vaibhav Srivastava

Counsel for Opposite Party :- A.S.G

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Shobh Nath Pandey, the learned counsel for the applicant, Sri Arpit Kumar, the learned A.G.A. for the State and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 12 of 2023, under Sections 380 & 411 IPC, Police Station Kumarganj, District Faizabad/Ayodhya.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 10.02.2023 alleging that a person committed a theft of about 150 gm gold from the informant's shop in his presence by duping him.
4. In the affidavit filed in support of the application it has been stated that the applicant is innocent. The affidavit discloses the applicant's involvement in Case Crime No. 78 of 2021, under Sections 323, 325, 504 & 506 IPC, Police Station Tarun, District Faizabad/Adyodhya, in which he has been granted bail on 26.05.2022.
5. The State has filed a counter affidavit opposing bail application and copies of material collected during investigation have been annexed with the affidavit.
6. In the statement of the informant, he has stated that in the CCTV camera installed at the shop, the incident was recorded and the culprit was seen going in a car. The applicant was arrested when he was going on that car and 146 gm gold jewelry was recovered from his possession, which was identified by the informant.
7. The learned counsel for the applicant has submitted that there is no independent witness of the alleged recovery and the

applicant is languishing in jail since 12.02.2023 whereas the offence alleged carry a maximum punishment of imprisonment upto seven years.

8. Learned counsel for the applicant has submitted that it is not recorded in the case diary that the CCTV footage was examined by the Investigating Officer and the applicant has been identified in that footage.

9. Learned AGA has produced a copy of the relevant extract of the case diary for perusal of the Court, wherein it is recorded that the Investigating Officer had examined the CCTV footage, wherein a suspected vehicle was seen and the person driving the vehicle was wearing cloths resembling the cloths worn by the suspected person; neither the vehicle number could be identified by the examination of the CCTV footage nor was the applicant identified on the basis thereof.

10. Having considered the aforesaid facts and circumstances of the case and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicants on bail in the aforesaid crime.

11. Accordingly, this bail application stands ***allowed***.

12. Let the applicant-***Amit Pathak*** be released on bail in Case Crime No. 12 of 2023, under Sections 380 & 411 IPC, Police Station Kumarganj, District Faizabad/Ayodhya. on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

(i) the applicant shall not tamper with the prosecution evidence;

(ii) the applicant shall not pressurize the prosecution witnesses;

(iii) the applicant shall appear on each and every date fixed by the trial court.

Order Date :- 26.10.2023

Pradeep/-