

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6019 of 2023

Applicant :- Ram Avtar Rajbhar

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

Counsel for Applicant :- Mohd.Anas Siddiqui, Arun Kumar, Surendra Kumar Mishra, Vineet Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Surendra Kumar Mishra, the learned counsel for the applicant as well as Sri Gyanendra Singh, the learned A.G.A. for the State and perused the record.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 151 of 2022, under Section 406, 420, 34 I.P.C. and Section 66D of Information Technology Act, registered at Police Station Bewama, District Ambedkar Nagar.

3. The aforesaid case has been registered on the basis of F.I.R. lodged on 12.10.2022 alleging that the fraudulent withdrawals were made through the informant's debit card on 16.07.2022. The F.I.R indicates that the informant had his debit card in his own possession and he did not received any O.T.P or any call for confirmation of the transaction.

4. The police claimed to have arrested two persons, including the applicant and a pistol, Rs.64,300/- and 10 ATM cards are said to have been recovered from the applicant. However, no independent person has witnessed the recovery.

5. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and he has been falsely implicated in the present case. The applicant's involvement in 9 other cases has been disclosed in the affidavit, in 8 of which the applicant has been granted bail.

6. The State has filed a counter affidavit opposing the bail application and the applicant's involvement in another case has been pointed out therein.

7. The learned counsel for the applicant has submitted that the other cases is regarding the alleged recovery of pistol from the applicant, regarding which the application under Section 3/55 of Arms Act has been lodged.

8. The learned A.G.A. has opposed the prayer of the bail, but he could not dispute the aforesaid aspects of the matter.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the transactions in question took place on 16.07.2022 where as the F.I.R has been lodged on 12.10.2022 i.e. after about 80 days of the incident; that the informant claims that his debit card remained in his custody and no O.T.P was received by him, which makes it difficult to believe the allegation of misuse of the debit card, coupled with the fact that the applicant is languishing in jail since 23.11.2022 and not even a single witness has been examined till date and without making any observations 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 applicant on bail.

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

11. Let the **applicant- Ram Avtar Rajbhar** be released on bail in the aforesaid case, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Magistrate/Court concerned, subject to the 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.

(Subhash Vidyarthi,J.)

Order Date :- 1.12.2023
Preeti.