

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7488 of 2023

Applicant :- Rakesh Kumar

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

Counsel for Applicant :- Irshad Ali,Amit Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Ashok Kumar Mishra, the learned counsel for the applicant as well as Ms. Charu Singh, the learned Additional Government Advocate appearing on behalf of the State and perused the records.
2. The instant application has been filed by the applicant seeking bail in F.I.R. bearing Case Crime No.127 of 2022, under Sections 419, 420, 467, 468, 471, 120-B I.P.C., registered at Police Station Kotwali Nagar, District Barabanki.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 07.02.2022 against the Branch Manager of Oriental Bank of Commerce, Branch Satrikh, Barabanki and an unknown person stating that some person has taken loan from the bank by mortgaging a piece of land which is recorded in the name of the informant's father. During investigation, the name of one Vivek Bhushan Srivastav came to light who had obtained loan by mortgaging the land belonging to the informant's father. He has been arrested by the police and a charge sheet has been submitted against him. The Investigating Officer has recorded in the case diary that the applicant had witnessed the grant of loan to Vivek Bhushan Srivastav and he telephonically informed the Investigating Officer that he had witnessed the loan in Oriental Bank of Commerce on the instructions of the co-accused Haree Shankar Mishra, who is Pradhan of the village.
4. The applicant's involvement in another case bearing Case Crime No. 184/2022 under Sections 419, 420, 467, 468, 471, 120-B I.P.C., registered at Police Station Mohammadpur Khala, District Barabanki, has been disclosed in the affidavit filed in support of the bail application, in which he has been granted bail by means of an order dated 06.04.2023 passed by this Court in Criminal Misc. Bail Application No. 4641 of 2023.

5. The learned counsel for the applicant has submitted that co-accused persons, namely, Haree Shankar Mishra @ Putaan and Vivek Bhushan Srivastava, have been granted anticipatory bail and bail by means of orders dated 03.08.2023 and 16.11.2023 passed by this Court in Criminal Misc. Anticipatory Bail Application No.1723 of 2023 and Bail Application No. 544 of 2023, respectively.

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

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has been implicated as he had witnessed the grant of loan to co-accused person Vivek Bhushan Srivastava, who has already been granted bail and that another co-accused person who has been granted anticipatory bail, coupled with the fact that the applicant is languishing in jail since 18.02.2023 and without making any observations which may affect the outcome of the case, without making any observations which may affect the merits of the case, I am of the view that the applicant is also entitled to be released on bail.

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

9. Let the **applicant- Rakesh Kumar** 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 :- 23.11.2023
Preeti.