

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8473 of 2023

Applicant :- Umesh Kumar

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

Counsel for Applicant :- Prashant Kumar Singh, Abhisar Dev, Amit Kumar Srivastava, Apoorv Dev, Ashok Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Ashok Kumar Singh, the learned counsel for the applicant as well as Sri Akhilesh Kumar Vyas, 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. 141 of 2023, under Section 419, 420, 467, 468, 471 I.P.C., registered at Police Station Gudamba, District Lucknow.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 17.04.2023 against three persons, including the applicant, stating that during Physical Eligibility Test being conducted for making appointments in Forest Department, one Vikas Kumar was appearing in place of a candidate Lokesh Kumar.
4. The applicant has been implicated on the basis of custodial statement of the aforesaid co-accused person, who stated that the applicant had asked him to appear in the examination and had promised to pay Rs. 4 lakhs and he had already received 1,80,000/-. The applicant was also arrested from outside the examination center and it is alleged that his Adhaar Card, two mix photos and a mobile phone was recovered from his possession.
5. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and he has no criminal history.
6. The learned counsel for the applicant has submitted that co-accused Lokesh Kumar, has already been granted bail by means of an order dated 02.11.2023

passed by this Court in Criminal Misc. Bail Application No. 12984 of 2023.

7. The State has filed a counter affidavit annexing therewith copies of material collected during investigation and a rejoinder affidavit has been filed on behalf of the applicant.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has been implicated on the basis of custodial statement of a co-accused person; that although it is alleged that two mix photos recovered from the applicant, the alleged recovery has not been witnessed by any independent person and that a co-accused person has already been granted bail, coupled with the fact that the applicant has no criminal history and he is languishing in jail since 17.04.2023 and 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.

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

10. Let the applicant- **Umesh 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 :- 20.11.2023

Preeti.