

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8306 of 2023

Applicant :- Rajesh @ Patela

Opposite Party :- State Of U.P. Through Principal Secretary, Home
Department Civil Secretariat, Lucknow

Counsel for Applicant :- Kaushal Kishore Tewari

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Sri Yugal Kishore, Advocate, holding brief of Sri Kaushal Kishore Tewari, learned counsel for the applicant and the learned A.G.A. for the State.

2. This bail application has been filed by the applicant seeking bail in Case Crime No. 85 of 2018 under section 395, 397, 412, 34, 205 I.P.C. P.S.- Kakori, District- Lucknow.

3. As per the prosecution case, the instant accused was found involved in an incident of dacoity which occurred in the first informant's house in the night of 21.01.2018. The dacoits indulged in physical violence and took away the valuables, leaving three persons injured.

4. It is contended on behalf of the applicant that about 12 days after the incident, a number of accused persons were arrested and in an unconnected case crime no. 0053 of 2018 under section 147, 148, 149, 307, 205, 177 and 34 I.P.C. At the time of the arrest, some statements were extracted by the police from one of the arrested persons, to show their involvement in the instant case of dacoity. It is further argued that such statements do not have any evidentiary value. The recovery, at the pointing out of the arrested persons is not reliable, as stolen property is said to be recovered from the joint possession of accused persons. The applicant is in custody since 03.02.2018 i.e. for more than five years now. As far as criminal history of the accused is concerned, the accused is bailed out in 12 cases as explained in the affidavit and that he is not a previous convict.

5. The application of bail is opposed by the learned A.G.A. It is conceded that accused is in custody since last five years. However, it cannot be said with certainty that how long will it take the trial to conclude.

6. I went through the contents of the F.I.R., statement of the first informant and the evidence proposed, taking into account all the facts and circumstances of the case, nature of allegations, the severity of punishment, role ascribed to the applicant, previous criminal history, period of custody and all other attending facts and circumstances of the case, I find it a fit case for bail.

7. Let applicant - **Rajesh @ Patela** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present as well as permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

8. Any violation of above conditions will be treated as misuse of bail and learned Court below will be at liberty to pass appropriate order.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 20.11.2023

Sumit Kumar