

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8459 of 2023

Applicant :- Puttan @ Ahmad Kalim

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

Counsel for Applicant :- Farooq Ayoob

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard Ms. Pooja Tiwari, Advocate, holding brief of Sri Farooq Ayoob, learned counsel for the applicant and learned A.G.A. for the State.

2. This bail application has been filed by the applicant seeking bail in Case Crime No. 21 of 2023 under sections 392, 411, 413, 414 I.P.C. P.S.- G.R.P., Gonda, District- Gonda.

3. As per the prosecution case, the G.R.P. Police, on the basis of confidential information that two suspicious persons are waiting on the platform, tried to apprehend them. But they instead, attempted to flee on a motorcycle. Both the persons were apprehended by the police and from their possession, certain incriminating articles i.e. one stolen mobile, a mangalsootra with locket, two ear tops of yellow metal were recovered. Both of them confessed before the police that they had stolen the articles about six months ago from a running train.

4. It is contended on behalf of the applicant that the Investigating Officer did not try to connect or to get identified the articles recovered from the owner of the same. The case of the prosecution is based on confessional statements given before the police which have no evidentiary value. The applicant is in custody since 11.05.2023 i.e. more than six months now. As far as the criminal history of the applicant is concerned, he has been granted bail in five cases out of seven. Two other cases cited as criminal history cannot be categorized as previous one as the same have been foisted on him on the basis of the same recovery memo. It is further said that once he is released on bail, he will cooperate in the trial and shall abide by all the conditions imposed by the Court.

5. The application for bail is opposed by the learned A.G.A., however, it is conceded that applicant is in custody since more than six months.

6. I considered nature of the allegations, role ascribed to the applicant, the evidence proposed, the severity of punishment, period of detention, previous criminal history and all other facts and circumstances of the case. In my view, a case for bail is made out..

7. Let applicant - **Puttan @ Ahmad Kalim** 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 :- 24.11.2023

Sumit Kumar