

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8694
of 2023

Applicant :- Shahbaz Alam

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

Counsel for Applicant :- Ishan Baghel, Pranshul
Tripathi, Umang Rai

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Ishan Baghel assisted by Sri Pranshul Tripathi and Sri Umang Rai, the learned counsel for the applicant as well as Sri Jayant Singh Tomar, the learned A.G.A.-I 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. 88 of 2023, under Sections 387, 222, 186, 506, 201, 120-B, 195-A, 451, 511 & 34 I.P.C. and Section 8 of Prevention of Corruption Act, Sections 42-B and 54 of Prisoners Act and Section 7 of Criminal Law Amendment Act, registered at Police Station Karvi Kotwali Nagar, District Chitrakoot.

3. The aforesaid case has been registered on the basis of F.I.R. lodged at 04:20 hours on 11.02.2023 against seven named persons, including the applicant and unnamed employees of District Jail, Chitrakoot by Sub-Inspector In-charge of Police Post Ragauli, Police Station Karvi Kotwali Nagar, stating that he had received an information from a mukhbir that co-accused Nikhat Bano used to visit Chitrakoot Jail without any hindrance with her driver Niyaaz for the past several days and she spends three to four hours per day with her husband-Abbas Ansari who

is a M.L.A and who is lodged in Chitrakoot Jail. The informant gave this information to higher officers and a surprise checking was carried out in the jail at about 1:00 pm on 10.02.2023 by the District Magistrate, Superintendent of Police along with the informant, the officer-in-charge of the SWAT Team, Inspector Crime along with their followers and lady police. Abbas Ansari was not found inside his barrack and an employee of the jail told that he was present in a room adjacent to the room of the jail superintendent along with his wife. When the room was got opened by the District Magistrate and Superintendent of Police, Nikhat Bano was found present in the room but Abbas Ansari was not there. The police personnel posted on the gate of the jail told the Superintendent of Police that co-accused Jagmohan, an employee of the jail had shifted Abbas Ansari from the room to the barrack, a few minutes ago.

4. The F.I.R alleges that two mobile phones were recovered from the co-accused Nikhat Bano and when she was asked to unlock the mobile phones, she deleted some data and thereafter she told wrong passwords because of which the phones got locked. As per the F.I.R version, Nikhat Bano herself told that Abbas Ansari was making plans for commission of several offences.

5. The applicant was not named in the F.I.R. and his name did not find place in the three charge sheets submitted on 10.04.2023, 26.04.2023 and 03.05.2023, the applicant's name surfaced for the first time in the fourth charge sheet submitted on 22.05.2023.

6. Learned counsel for the applicant has submitted that the applicant used to work as an Accountant in Jameel Ahmad and Company Chartered Accountants and he ceased to be in its employment since 05.05.2016. The applicant has been

implicated in the present case as it has come to light that he used to operate two bank accounts in the names of Ashaf Shah and Roshni Bano.

7. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history.

8. The State has filed a counter affidavit opposing the bail application and the copies of statements collected during investigation have been annexed with the affidavit.

9. One Irshad Ahmad S/o Jameel Ahmad has stated that he is a Chartered Accountant and he works in Jameel Ahmad and Company. He stated that the applicant started working with the company since the year 2012 and he used to look after the GST related works. The applicant had taken some documents of Ashaf Shah and Mohd. Shehran, who also used to work in the same company, for opening their accounts but he did not disclose the fact of the opening of the accounts to the aforesaid persons. He further stated that one Danish Khan used to come to meet the applicant. Later on he came to know that the applicant had got bank accounts opened in the names of the aforesaid persons and was operating the same, keeping Roshni Bano and Ashaf Shah ignorant about this fact. However, in the statements of Ashaf Shah and Shahbaz Alam recorded by the Investigating Officer, they did not level any allegation against the applicant and they levelled allegations against the co-accused Danish only.

10. Sri Jayant Singh Tomar, learned A.G.A.-I has submitted that the applicant was actively involved in handling the extortion money collected on behalf of the co-accused Mukhtar Ansari and for depositing the same in the bank accounts in the names

of other persons. He has submitted that Danish is still absconding and it will be detrimental for the prosecution case in case the applicant is enlarged on bail by this court, at this stage.

11. Learned counsel for the applicant has submitted that five accused persons have already been granted bail in the present case including the co-accused Nikhat Bano, whose bail application was rejected by this court and who has been granted bail by Hon'ble Supreme Court.

12. Having considered the aforesaid facts and circumstances of the case, prima facie, it appears that the applicant was implicated for the sole reason that he used to operate the bank accounts in the names of two persons. Although, one Irshad Ahmad has stated that the applicant had got bank account opened in the name of two persons Ashaf Shah and Roshni Bano without their knowledge, Ashaf Shah and Roshni Bano have recorded their statements before the Investigating Officer and they have not levelled any allegation against the applicant. A copy of the account opening form annexed with the affidavit indicates that the account had been opened by those persons themselves. Ashaf Shah and Roshni Bano have not levelled any allegation against the applicant in their statements recorded by the Investigating Officer.

13. Also keeping in view the fact that the applicant has no previous criminal history and he is languishing in jail since 24.03.2023 coupled with the fact that five co-accused persons have already been enlarged on bail and the offences alleged carry a maximum punishment of imprisonment up to seven years and without making any observation, 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 in the aforesaid crime.

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

15. Let the **applicant-Shahbaz Alam** be released on bail in Case Crime No. 88 of 2023, under Sections 387, 222, 186, 506, 201, 120-B, 195-A, 451, 511 & 34 I.P.C. and Section 8 of Prevention of Corruption Act, Sections 42-B and 54 of Prisoners Act and Section 7 of Criminal Law Amendment Act, registered at Police Station Karvi Kotwali Nagar, District Chitrakoot on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to 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.

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(Subhash Vidyarthi, J.)

Order Date :- 11.10.2023

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