

Court No. - 12

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9793 of 2023

Applicant :- Harsh Vardhan Tiwari @ Sonal

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

Counsel for Applicant :- Purnendu

Chakravarty,Pranjal Jain,Shivanshu Goswami

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh,J.

1. Heard Sri Purnendu Chakravarty, learned counsel for the applicant, Sri Rao Narendra Singh, learned A.G.A for the State of U.P. and perused the record.

2. The present second bail application has been filed on behalf of the applicant involved in Case Crime No.382/2022, under Sections 419, 420, 467, 468, 471, 120-B I.P.C. and Section 66D I.T. Act, Police Station - Hazratganj, District - Lucknow, with the prayer to enlarge him on bail, however, first bail application was rejected on 25.4.2023 with a direction to the trial court to conclude the trial of the present case expeditiously without granting any unnecessary adjournment and office was also directed to communicate the order to the trial court forthwith.

3. Learned counsel for the applicant has submitted that till today charge has not been framed by the learned trial court and co-accused Ritu Garg has already been enlarged on bail by this Court in Criminal Misc. Bail Application No.4650 of 2023 with a direction to the Director C.B.I., New Delhi to register a case on the statement of Dr. Umakant recorded under Section 161 Cr.P.C. by the Investigating Officer of the present case as mentioned in C.D.20 and also directed to investigate the allegations made by Dr. Umakant in relation to mal-practice adopted in the admission process of U.G. and P.G. courses in Ayush Department, in the year 2019. He next

submitted that State Government has challenged the order dated 24.5.2023 passed in Criminal Misc. Bail Application No.4650 of 2023 only feeling aggrieved by the direction of this Court related to the registration of case, investigation by the C.B.I. and notice was issued by the Apex Court on the question of examining the propriety of the direction of the High Court to order investigation by the C.B.I. He further submitted that co-accused, Dr. Vijay Yadav has also been enlarged on bail by the Apex Court in S.L.P. (Criminal) No.7486 of 2023 on 28.8.2023 and one of the main accused, Satya Narayan Singh, Director, Department of Ayush/Secretary of Counseling Board was granted bail by the Additional Sessions Judge/Special Court P.C. Act, Court No.3, Lucknow on 24.5.2023. He lastly submitted that he does not having criminal antecedent and also undertakes that he will cooperate in proceeding of trial. In these circumstances, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

4. Learned A.G.A. has opposed the prayer for grant of bail and submitted that sufficient evidences were found against the applicant and his first bail application was rejected by this Court on merit. He also informed that bail of co-accused Alok Trivedi has also been rejected by co-ordinate bench of this Court in Criminal Misc. Bail Application No.5998/2023 on 24.8.2023. He also submitted that there is interference of several criminal minded persons in the admission of medical courses at the inter-state level and in the present case also, some persons are having nexus with Maharashtra, therefore, a request was made by the State Government on 11.10.2022, vide letter no. 102 V.I.P./Cha-pu-3-2022-76P/2022 for enquiry by the C.B.I. and the request of State Government for C.B.I. investigation into the matter of admission of student in college through fraudulent means was denied by Under Secretary to the Government of India vide letter No.228/115/2022-AVD-II, dated 13.4.2023.

5. Considering the rival submissions of learned counsel for applicant, learned A.G.A., material available on record, contents of F.I.R., first bail

rejection order of the applicant and the order dated 24.5.2023 passed by this Court in Criminal Misc. Bail Application No.4650 of 2023 as well as bail order of Dr. Vijay Yadav, as a direction was issued at the time of rejection of first bail application of the applicant that trial be expedited, but till today charge has not been framed and as the investigation of the case in question is still pending, therefore, I am of the view that the applicant is entitled to be released on bail.

6. Let applicant - **Harsh Vardhan Tiwari @ Sonal** - be released on bail in aforesaid Case Crime, 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 commit or participate in any offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

(ii) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(v) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the

Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(vi) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

7. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 26.10.2023

Gaurav/-