Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10413 of 2023

Applicant :- Shiva Chaurasiya @ Jaan
Opposite Party :- State Of U.P. Thru Prin. Secy Home Dept. Lko
Counsel for Applicant :- Vinay Mishra,Dinesh Kumar Dixit,Laxmi Shanker Goswami
Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma,J.

1. Heard learned counsel for applicant and learned A.G.A. for the State.

2. The present bail application has been filed by the applicant seeking bail in case crime no. 0538 of 2022, under sections 457, 380, 411 I.P.C. registered at Police Station-Para, District-Lucknow.

3. As per the prosecution case, the instant accused/applicant was found involved in a case of theft and house breaking by night. In the aforesaid incident occurred some time between 07.11.2022 to 09.11.2022. Some unknown persons cut open the latches of the main gate, intruded inside and stole away some golden jewellery and Rs. 7,000/- cash. On 05.01.2023, a team of police officers, on the basis of confidential information apprehended the instant applicant namely, Shiva Chaurasiya @ Jaan and recovered a number of stolen articles and stolen cash etc. He confessed before the police to have been involved in the incident.

4. It is contended on behalf of the applicant that he is not named in the FIR and the case of the prosecution against him rests upon a confessional statement given by him before the police. It is contended that such a confessional statement has no evidentiary value and is not admissible in evidence. It is further contended that the alleged articles recovered from him were not put for identification by the first informant. The applicant is in custody since 05.01.2023 i.e. about more than 11 months now. As far as his criminal history is concerned, in all the six cases cited by the prosecution as his criminal history, he has been granted bail.

5. The application for bail is opposed by learned A.G.A., however certain aspects of the matter could not be refuted.

6. I considered the nature of allegation, role ascribed to the applicant, evidence proposed to be produced, period of detention, and all other facts and circumstances of the case including explanatory defence offered by the applicant in his contentions. In my view, a case for bail is made out.

7. Let applicant - **Shiva Chaurasiya @ Jaan** 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 (a) hearing/framing of charge and (b) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present and 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 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
Vikram

Digitally signed by :-
VIKRAM GUPTA
High Court of Judicature at Allahabad,
Lucknow Bench