

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 10556 of 2023

Applicant :- Mohit Sharma

Opposite Party :- State Of Up Through Prin. Secy. Home
Lucknow

Counsel for Applicant :- Ashok Kumar, Neeraj Kumar Rastogi

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Neeraj Kumar Saxena, the learned counsel for the applicant as well as Sri Pragyanand Rai, the learned A.G.A. 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. 628 of 2023, under Section 307, 394 I.P.C., registered at Police Station Kotwali Sadar, District Lakhimpur Kheri.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 07.07.2023, alleging that when the informant was closing his shop at about 10:15 pm on 06.07.2023, an unknown person tried to rob him by threatening him with a pistol but the informant snatched away the pistol and the miscreant ran away along with the applicant on a motorcycle.
4. The applicant was arrested on 09.07.2023 on the basis of information received from a mukhbir along with one Rahul Sharma. A pistol and a motorcycle were recovered from the applicant and he was implicated in the present case on the basis of his custodial confessional statement.
5. The police claims to have got the applicant identified by the informant in the police station. It has also been submitted that a co-accused Rahul Sharma has already been enlarged on bail by this court by means of an order dated 02.11.2023, passed in Criminal Misc. Bail Application No.12961 of 2023.
6. The learned A.G.A. has opposed the prayer of the bail, but he could not dispute the aforesaid aspects of the matter.
7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that even as per the F.I.R averments, no robbery took place against the informant; that the

applicant has been implicated in the present case solely on the basis of his custodial statement; that the applicant has allegedly been identified by the informant while he was in custody and no identification parade has been carried out in accordance with the manner prescribed by Section 54 A Cr.P.C, coupled with the fact that the applicant has no previous criminal history and he is languishing in jail since 09.07.2023 whereas the other co-accused person Rahul Sharma has already been enlarged on bail and without making any observations 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.

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

9. Let the **applicant-Mohit Sharma** be released on bail in the aforesaid case, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Magistrate/Court concerned, subject to the 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 :- 5.12.2023
Ram.