

Court No. - 12

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11861 of 2023

Applicant :- Anil Kumar Tulsiani

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

Counsel for Applicant :- Abhinav Mishra, Vaibhav Kalia

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Singh, J.

1. Heard Shri Dileep Kumar Singh, Advocate assisted by Shri Sudhanshu Kumar and Abhinav Mishra, learned counsel for the applicant as well as learned A.G.A. for the State of U.P. and perused the record.

2. The present bail application has been filed on behalf of the applicant in F.I.R. No.0336 of 2022 under Sections 409, 420 I.P.C., Police Station Hazratganj, District Lucknow, with the prayer to enlarge him on bail.

3. Learned counsel for the applicant submitted that the applicant is an innocent person and has been falsely implicated in the present case and he is in jail since 05.11.2022. He further submitted that the first bail application no.1993 of 2023 of the applicant was rejected by this Court on 03.03.2023, and thereafter, applicant approached the Hon'ble Apex Court by filing S.L.P. (Criminal) No.4117 of 2023 which was rejected on 29.03.2023 with liberty to applicant to file bail application after charges are framed. He further submitted that on 22.05.2023, charges were framed by the trial court for the offence under Section 409 and 420 I.P.C., but till today, not even a single evidence has been recorded.

4. Learned counsel for the applicant submitted that the informant of the present case is the Chief Branch Manager, as the loan amount was not paid in accordance with the Three Buyer's Agreement and the applicant has also filed a suit before the Debt Recovery Tribunal, in which, issue was resolved by way of one time settlement and it is in the process of clearing dues by the applicant. He further submitted that applicant has been implicated in 17 other cases of identical nature as the applicant is a Director in M/s Tulsiani Constructions and Developers Ltd. and feeling aggrieved, some of the purchasers have lodged the F.I.R. as the applicant tried for settlement of these dues. He further submitted that in the present case, there

is no possibility of conclusion of trial in near future. In these circumstances, the applicant is entitled for bail. In case of being enlarged on bail, he will not misuse the liberty of bail.

5. Learned A.G.A. has opposed the prayer of the applicant for grant of bail but he does not dispute this fact that at the time of rejecting the aforesaid S.L.P., Hon'ble Court gave liberty to applicant to file bail application after framing of charges.

6. Considering the rival submissions of learned counsel for parties, material available on record, contents of the F.I.R., other relevant documents as well as totality of fact and circumstances, as it is evident from the record that at the time of rejecting the aforesaid S.L.P., Hon'ble Court gave liberty to applicant to file bail application after framing of charges, as the annexure no.3 reveals that charges were framed on 22.05.2023, as the applicant is in jail since 05.11.2022 but till today not even a single witness has been examined, I am of the view that the applicant is entitled to be released on bail.

7. Let applicant - **Anil Kumar Tulsiani** - 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.

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

9. Trial court is directed to conclude trial, expeditiously without giving unnecessary adjournment to either of the parties.

10. Joint Director, Enforcement Directorate, is also directed to submit a report about the status of the inquiry, if any done.

11. Learned A.G.A. is also directed to communicate this order to Joint Director, Enforcement Directorate

Order Date :- 30.10.2023

V. Sinha