

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12080 of 2023

Applicant :- Syed Mohammad Muhid Alam

Opposite Party :- State Of U.P. Thru. Prin. Secy. (Home), Lucknow

Counsel for Applicant :- Saima Khan, Pratibha Agnihotri

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Ms Saima Khan, learned counsel for the applicant, Sri Manish Kumar Pandey, learned A.G.A. for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.132 of 2017, under Sections 406, 420, 506 I.P.C. and Section 7/13(1)(d) of the Prevention of Corruption Act, registered at Police Station Aashiyana, District Lucknow.

3. Learned A.G.A. has raised a preliminary objection that the applicant has sought his release on bail although he is not in custody. He has submitted that bail can be granted to a person under Section 439 Cr.P.C. only if he is under custody.

4. Confronted with the aforesaid objection, learned counsel for the applicant submits that the instant application may be dismissed as not pressed leaving it open to the applicant to avail his remedy of filing an application under Section 438 Cr.P.C.

If such an application is filed by the applicant, it is provided that same shall be decided in accordance with law, keeping in view of mandate of the Hon'ble Supreme Court in the case of **Satender Kumar Antil vs Central Bureau of Investigation:** (2022) 10 SCC 51.

5. With the aforesaid observation, the application stands **disposed of**.

(Subhash Vidyarthi, J.)

Order Date :- 12.10.2023/prateek