

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11976 of 2023

Applicant :- Jaypal Rastogi

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

Counsel for Applicant :- Kaushal Kishore Tewari

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Kaushal Kishore Tewari, the learned counsel for the applicant, Sri J.S. Tomar, the learned A.G.A.-I 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.285 of 2023, under Sections 399/402/411/413/414 I.P.C., registered at Police Station Ishanagar, District Lakhimpur Kheri.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 25.07.2023 against eight persons, including the applicant, alleging that on the basis of information received from a mukhbir three co-accused persons were arrested while they were making plans for commission of a decoity and four persons ran away. The F.I.R. mentions that several stolen articles were recovered from the possession of the arrested persons and in their custodial statement, they stated that they can get some more articles recovered from the applicant. The police party reached the applicant's house and the applicant was lying outside his house. He confessed that he used to purchase jewellery from three persons arrested by the police. It is alleged that the applicant brought some articles of jewellery from his shop which were purchased by him from the co-accused persons.

4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no previous criminal history. After his arrest the applicant has been implicated in two other cases, namely Case Crime No.0280 of 2023, under Sections 457/380/411 I.P.C. Police Station Ishanagar, District Lakhimpur Kheri and Case Crime No.223 of 2023, under Sections 457/380/411 I.P.C. Police Station Ishanagar, District Lakhimpur Kheri, in both of which the applicant has been granted bail by Sessions Court. The co-accused Merajul @ Meraj has already been enlarged on bail by this court by means of an order dated 03.10.2023, passed in Criminal Misc. Bail Application No.11653 of 2023.

5. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has been implicated on the basis of custodial statement of the co-accused persons and although it is alleged that the applicant was lying outside his house when he was apprehended, he gave some jewellery after bringing the same from his shop which fact has not been witnessed by any independent person, coupled with the fact that the applicant is languishing in jail since 25.07.2023 and one of the co-accused persons has already been enlarged on bail and without making any observation, 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 in the aforesaid crime.

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

8. Let the **applicant- Jaypal Rastogi** be released on bail in

Case Crime No.285 of 2023, under Sections 399/402/411/413/414 I.P.C., registered at Police Station Ishanagar, District Lakhimpur Kheri on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to 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.

(Subhash Vidyarthi, J.)

Order Date :- 10.10.2023
Ram.