

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12190 of 2023

Applicant :- Aslam

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

Counsel for Applicant :- Ramakar Shukla, Subodh Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Ramakar Shukla, the learned counsel for the applicant as well as Sri Amit Kumar Dwivedi, 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. 49 of 2023, under Section 395 I.P.C., registered at Police Station Banthra, District Lucknow.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 16.02.2023 naming four persons as accused on the basis of suspicion, alleging that a truck loaded with packets of mustard oil was robbed by four unknown miscreants.
4. On the basis of information received from a mukbir, the police apprehended one Ashiq and in his custodial statement, he stated that he had given effect to the incident along with Aslam and the robbed goods were sold to one Shiv Shanker Shukla. He further stated that incident was given effect to by him along with 13 other named persons, including the applicant. Besides the aforesaid custodial statement of co-accused person, there is no material against the applicant and nothing has been recovered from his possession or his pointing out.
5. The applicant's criminal history of two cases has been disclosed in para 31 of the affidavit and para 2 of the supplementary affidavit filed in support of the bail application, as per which he is involved in two cases and he has been granted bail in both the cases. It has been further submitted that the two other co-accused persons named Afroz and Mustak have already been granted bail by this court by means of orders dated 22.09.2023 and 06.10.2023, passed in Criminal Misc. Bail Application Nos. 11439 of 2023 and 11811 of 2023 respectively.

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 the applicant has been implicated in the present case on sole basis of custodial statement of a co-accused person and nothing has been recovered from his possession and two other co-accused persons have been granted 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- Aslam** 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 :- 12.10.2023

Ram.