

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12563 of 2023

Applicant :- Dheeraj Kumar

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

Counsel for Applicant :- Alok Kr. Misra

Counsel for Opposite Party :- G.A., Romit Seth

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Alok Kumar Misra, the learned counsel for the applicant, Sri Rao Narendra Singh, learned A.G.A.-1 for the State and Sri Romit Seth, the learned counsel for the informant.

2. This is the second application seeking release of the applicant on bail in Case Crime No.160 of 2020, under Sections 406, 419, 420, 467, 468, 471, 120-B, 170 I.P.C. and Sections 7 (Ka), 8 (1) (1) of Prevention of Corruption Act, registered at Police Station Hazratganj, District Lucknow. The first bail application bearing No.9508 of 2020 was rejected by means of an order passed by this court on 29.01.2021, by means of which along with bail application of the applicant bail applications of seven other co-accused persons were rejected.

3. The second bail application has been moved on the ground that after rejection of first bail application of the applicant several co-accused persons have been granted bail in the present case. The co-accused Rajnish Dixit, Santosh Mishra, Raghuveer Prasad, Roopak Rai and Uma Shankar Tiwari, whose bail applications were rejected with the bail application of the applicant have been granted bail. Some other accused persons have also been granted bail in the present case.

Although the applicant is languishing in jail since 14.06.2020, the trial is yet to commence.

4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent and he has been falsely implicated in the present case. The applicant's involvement in two other cases has been disclosed in paras 20 and 21 of the affidavit filed in support of the bail application, in one of which he has been granted bail and other case is under Uttar Pradesh Gangsters and Anti-Social Activities (Prevention) Act, 1986, in which he has been implicated on the basis of his involvement in the present case.

5. The learned A.G.A. appearing on behalf of the State and the learned counsel for the informant have opposed the prayer for bail but they 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 several co-accused persons have already been granted bail in the present case whereas the applicant is languishing in jail since 14.06.2020 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-Dheeraj Kumar** 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 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.

9. At this stage, the learned counsel for the informant has submitted that as many as 14 discharge applications were filed in this case and till date only 9 applications could be decided. He has submitted that the accused persons are not cooperating with the proceedings in spite of a direction issued by this court in its order dated 06.11.2023, passed in Criminal Misc. Bail Application No.7458 of 2023 and the trial cannot commence because of their non-cooperation.

10. In view of the aforesaid circumstances, the trial court is directed to decide all the discharge applications positively within a period of 30 days from today after giving opportunity to the parties to advance their submissions and in case any party fails to avail the opportunity, the trial court should decide the application on merits after perusal of records and availing assistance of whichever of the counsel who is appearing before the Court.

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(Subhash Vidyarthi, J.)

Order Date :- 15.12.2023
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