

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12825 of 2023

Applicant :- Mayankar Tiwari

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

Counsel for Applicant :- Anjani Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Supplementary affidavit filed today is taken on record.
2. Heard Sri Anjani Kumar Shukla, learned counsel for the applicant as well as Sri Akhilesh Kumar Vyas, learned A.G.A.-I for the State and perused the records.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 83 of 2023, under Sections 394 & 411 I.P.C., registered at Police Station- Itiyathok, District- Gonda.
4. The aforesaid case has been registered on the basis of an F.I.R. lodged on 20.02.2023 against three persons, including the applicant, stating that the accused persons had robbed the informant's mobile phone, a silver necklace and Rs.10,500/- and while they were trying to run away, the informant raised an alarm whereupon some other persons reached there and the applicant was caught on the spot. The other two persons escaped. The mobile phone and the silver necklace was recovered from the applicant and Rs.10,500/- were taken by the other co-accused persons.
5. 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. Further, it has been stated in the

affidavit that a dispute had occurred between the parties regarding fair of e-rickshaw being driven by the informant and the applicant & the informant, both have received some injuries in the incident. Copy of injury reports of the informant and the applicant have been annexed with the affidavit.

6. The applicant's involvement in Case Crime No.176 of 2022, under Section 8/21 N.D.P.S Act, Police Station- Khargoopur, District- Gonda has been disclosed in para 23 of the affidavit filed in support of the bail application and his involvement in another case under Section 379 I.P.C has been disclosed in para 4 of the supplementary affidavit filed today on his behalf and he has been granted bail in both the aforesaid cases.

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

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the informant and the applicant, both have received injuries in the incident regarding which there is absolutely no explanation in the F.I.R., prima facie it appears that the informant has not disclosed the complete facts, coupled with the fact that the applicant is languishing in jail since 21.02.2023 and even charges have not been framed till date 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.

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

10. Let the **applicant- Mayankar Tiwari** 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.

(Subhash Vidyarthi, J.)

Order Date :- 1.11.2023
Gurpreet Singh