

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12775 of 2023

Applicant :- Nandu Kumar

Opposite Party :- State Of U.P. Thru. Cbi /A.C.B. Lko.

Counsel for Applicant :- Sandeep Kumar Pandey, Manoj Kumar Mishra, Shitla Prasad Tiwari

Counsel for Opposite Party :- Anurag Kumar Singh

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Manoj Kumar Mishra, the learned counsel for the applicant, the learned A.G.A. for the State and Sri Shiv P. Shukla, the learned counsel appearing for the C.B.I. and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Crl. Misc. Case No.95 of 2018, Case Crime No.26-A of 2010, under Sections 120-B, 409, 420, 467, 468, 471 I.P.C. and Section 13 (2) Prevention of Corruption Act, 1988, registered at Police Station CBI/ACB Lucknow, District Lucknow.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 14.12.2010 against 29 named persons, including the applicant and some unknown persons, alleging certain illegalities committed in lifting the food grains and making payments under public distribution scheme during the years 2004-05. After investigation the C.B.I. has submitted a charge sheet on 06.11.2017 against six persons including the applicant who was working as Godown Incharge of Arajiline Block between 01.04.2004 and 31.03.2005. It is stated in the charge sheet that the applicant is responsible in issuance of food grains to kotedars as per their allotment but kotedars have

denied receipt of various quantity of food grains and it is alleged that thus the applicant cause subsidy loss of Rs.23,35,817/- by misappropriating food grains through forgery of signatures of kotedars.

4. In the affidavit filed in support of bail application it has been stated that the applicant is presently 69 years old, he has been falsely implicated in the present case and he has no criminal history. It has further been submitted on behalf of the applicant that three co-accused persons Awadhesh Singh, Jag Narayan Gupta and Jaikesh Kumar Singh, including an employee of the department, a Kotedar and a person who had assisted in commission of offence have already been enlarged on bail by this court by means of orders dated 19.11.2023, 06.11.2019 and 16.05.2019, passed in Bail Nos.7379 of 2013, 6835 of 2018 and 4992 of 2019 respectively.

5. The learned A.G.A. as well as learned counsel for the C.B.I. have opposed the prayer for bail. Learned counsel for the C.B.I. has submitted that the applicant has not cooperated with the proceedings and the charge sheet was submitted in the year 2017 and the applicant did not appear in spite of issuance of summons and warrants and ultimately he was arrested on 02.07.2023.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the offence in question took place between the years 2004-05, the F.I.R. of the incident was lodged in the year 2010 and the charge sheet was submitted in the year 2017; that the applicant is a 69 years old retired government servant having no previous criminal history and he is languishing in jail since 03.07.2023, whereas three co-accused persons have already been granted bail by this court 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-Nandu 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.

(Subhash Vidyarthi, J.)

Order Date :- 31.10.2023
Ram.