

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13013 of 2023

Applicant :- Nikhil Vishwakarma

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

Counsel for Applicant :- Martand Pratap Singh, Anand Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Anand Dubey, learned counsel for the applicant, Sri Jayant Singh Tomar, 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. 294 of 2023, under Sections 394, 307, 411 and 120-B I.P.C., registered at Police Station Inayatnagar, District Faizabad/Ayodhya.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 03.07.2023 stating that three unknown persons had robbed Rs.98,286/-, a tab and bio-metric machine kept in a bag from the informant and two of them had fired towards the informant with a pistol but he did not receive any injury. The police claims to have arrested two persons, Devendra Pathak and Umesh Kumar on 04.07.2023 and it is alleged that some robbed articles were recovered from them. In the custodial confessional statements of the aforesaid two co-accused persons the name of the applicant surfaced and on the basis of their statement applicant has been implicated in the present case and Rs.1,800/- and a tab and a pistol have been recovered from the applicant.

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. Learned counsel for applicant has submitted that the applicant has no criminal history and after his arrest, the applicant has been implicated in two more cases in both of which the applicant has been granted bail. A co-accused Amit Yadav alias Nangu has been granted bail by means of order dated 24.8.2023 passed by this Court in Criminal Misc.

Bail Application No. 10598 of 2023. The applicant is in jail since 9.7.2023.

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 in the present case solely on the basis of custodial statements of co-accused persons; and coupled with the fact that co-accused person has been granted bail and the applicant is languishing in jail since 07.07.2023 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- Nikhil Vishwakarma be released on bail in Case Crime No. 294 of 2023, under Sections 394, 307 411, and 120-B I.P.C., registered at Police Station Inayatnagar, District Faizabad/Ayodhya 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.

Order Date :- 3.11.2023

Virendra