

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13287 of 2023

Applicant :- Vivek Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Aviral Raj Singh, Alok Kumar Singh, Ankit Kumar Pandey, Dhruv Kumar Singh, Nadeem Murtaza, Palash Banerjee, Ritwick Rai, Vaibhav Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Nadeem Murtaza, the learned counsel for the applicant as well as Sri J.S. 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. 119 of 2023, under Sections 120-B/ 409/ 420/ 467/ 468/ 471 I.P.C. registered at Police Station- Hazratganj, District- Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 30.03.2023 against 18 named persons, not including the applicant, and some unknown persons, alleging fraudulent payment of post matriculation scholarship to 17 ineligible candidates of 10 named institutes. Amongst other institutes, Jagdish Prasad Verma Higher Secondary School, Gausganj, Hardoi is also mentioned in the F.I.R., of which the applicant is said to be the Manager and person responsible for wrongful disbursement of the scholarship.
4. During investigation, the Investigating Officer recorded that a co-accused Yashwant Kannaujiya is related to the applicant as his brother-in-law and he had given the login password and ID of the college to co-accused Ravi Prakash Gupta, who is employed in Hygia College.
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 and he has no criminal history. It has also been submitted that the co-accused Yashwant Kannaujiya has already been granted bail by this court by means of an order dated 01.11.2023, passed in Criminal Misc. Bail Application No.12866 of 2023.

6. The learned A.G.A. has opposed the prayer for 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 although the applicant is named in the F.I.R. during investigation it came to light that the co-accused Yashwant Kannaujiya had given the login ID and password of the College to a co-accused Ravi Prakash Gupta, who is an employee in Hygia College and who had committed the offence; that the aforesaid Yashwant Kannaujiya has also been granted bail by this court; that the charge sheet already has been submitted; that the applicant has no previous criminal history and he is languishing in jail since 16.08.2023 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.

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

9. Let the **applicant-Vivek 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.

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(Subhash Vidyarthi, J.)

Order Date :- 8.11.2023

Ram.