

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13463 of 2023

Applicant :- Abhay Kumar Pandey

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

Counsel for Applicant :- Vaibhav Srivastava, Yogesh Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

01. Heard Shri Vaibhav Srivastava, learned counsel for applicant and learned A.G.A. for the State.

02. The present bail application has been filed by the applicant seeking bail in case crime no.555 of 2021, under Sections 379 and 411 I.P.C., P.S.Kotwali Ayodhya, District Ayodhya/Faizabad.

03. As per prosecution case, on the basis of confidential information received by the police certain place was raided and keys of three motorcycles from a person named Abhay Kumar Pandey, who was apprehended on the spot, were recovered and on his pointing out a motorcycle, registration no. U.P. 32 J.V./3474 was recovered which was stolen from district Barabanki and case crime no.295/19, under Section 379 I.P.C. P.S. Ram Sanahi Ghat, District Barabanki was registered. The accused was taken into custody then and there and on the basis of recovery memo instant case was registered and investigated upon and chargesheet has been submitted under Sections 379 and 411 I.P.C.

04. It is submitted on behalf of the applicant that he has been falsely implicated in this case. The story as revealed from recovery memo suffers from inherent improbability. Applicant does not have any previous criminal history. The real fact is that on the basis of same recovery memo several cases have been slapped on him. There is no public witness of the recovery. The prosecution case about recovery of motorcycle and several other vehicle is false. The applicant is in custody since 06.01.2022 i.e. almost two years now. He assured the Court that he shall abide by conditions, if any, imposed by this Court while granting bail and shall not misuse the liberty.

05. Application is opposed by learned A.G.A. highlighting the fact that at the same time six other motorcycles were recovered on his pointing out which show his criminal antecedents. However, it is conceded that the applicant is in custody since 06.01.2022 and that it cannot be said with certainty that how long will it take for trial to conclude.

06. I considered submissions of both sides, contents of the recovery, period of detention and all other attending facts and circumstances of the case. In my view, a case for bail is made out.

07. Let applicant - **Abhay Kumar Pandey** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present as well as permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

08. Any violation of above conditions will be treated as misuse of bail and learned Court below will be at liberty to pass appropriate order.

09. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 17.11.2023

Asha