

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13627 of 2023

Applicant :- Umesh Kumar Yadav

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

Counsel for Applicant :- Amar Nath Dubey, Anil Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Amar Nath Dubey, learned counsel for the applicant, and Sri Vinod Kumar Yadav, learned Addl. Government Advocate, and perused the record.

2. By means of the instant application the applicant seeks bail in Case Crime No. 97 of 2023, under sections 409, 419, 420, 467, 468, 471 I.P.C., P.S. Jethwara, District Pratapgarh.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 27.5.2023 against the Branch Manager, Bank of Baroda, Branch- Derwa, Pratapgarh, stating that a total of Rs. 11,74,100.00 was withdrawn from the informant's account through various transactions between 22.3.2023 and 30.3.2023. The applicant was working as Branch Manager, Patti, Pratapgarh, and the Police claim to have arrested him on 28.6.2023 on the basis of information received from an informer (Mukhbir). It is alleged that in his custodial statement, the applicant has confessed that he had supplied database of the concerned bank-account to the other accused persons.

4. Although the arrest-memo mentions that the applicant was arrested on 28.6.2023, the memo has been prepared on 1.7.2023 indicating that the applicant was kept in custody from 28.6.2023 till 1.7.2023, without producing him before a Magistrate, which amounts to commission of offence of 'illegal detention' by the Sub Inspector/Investigating Officer concerned

and commission of which offence is apparent on the face of the record in the shape of the arrest-memo prepared by the concerned Sub Inspector/Investigating Officer.

5. In the affidavit filed in support of the bail-application it has been stated that the applicant is innocent and he has been falsely implicated in the present case. It has also been stated in the affidavit that after his arrest in the present case, the applicant has been implicated in five other cases, details whereof have been given in para-21 of the affidavit. It has also been stated in the affidavit that one of the co-accused persons Surendra Singh has been granted Bail by means of order dated 30.10.2023 passed by this Court in Criminal Misc. Bail Application No. 12521 of 2023. Another co-accused Dev Kumar Gupta has been granted bail by means of order dated 13.10.2023 passed by the Sessions Court Pratapgarh.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant was not posted in the Branch where the offence is alleged to have been committed; that the applicant has been implicated in the present case only on the basis of information received from an informer and on the basis of his custodial confessional statement and no incriminating material has been recovered from the applicant; that two co-accused have already been granted bail, 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. Accordingly, this bail application stands **allowed**.

7. Let the applicant **Umesh Kumar Yadav** be released on bail in the aforesaid Case Crime No. 97 of 2023, under sections 409, 419, 420, 467, 468, 471 I.P.C., P.S. Jethwara, District

Pratapgarh, on his 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.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

9. Although the bail-application stands disposed, but as it is evident from the arrest-memo prepared in the present case that the applicant was kept in 'illegal detention' from 28.6.2023 to 1.7.2023, without being produced before a Magistrate, the Superintendent of Police is directed to look into the matter and take appropriate action in accordance with law, including disciplinary action as well as criminal prosecution of the guilty official/officer, and to submit a report regarding the action taken in compliance of this order, within a period of 3 months.

10. List this case on 4.3.2024 for submission of the compliance report.

(Subhash Vidyarthi, J.)

Order Date :- 18.11.2023

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