

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13865 of 2023

Applicant :- Sunil Balmiki

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Home, Lucknow

Counsel for Applicant :- Pramendra Kumar, Shyamji Dixit

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Shyamji Dixit, learned counsel for the applicant, Sri Arpit Kumar, learned A.G.A. 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.131 of 2023, under Sections 380, 411 I.P.C., registered at Police Station Maigalganj, District Kheri.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 08.04.2023 alleging commission of theft of an inverter, battery, solar plate and some other articles from a school. The police claim to have arrested three persons on the basis of an information received from a mukhbir and to have recovered Rs.2100/- cash from the applicant. It is alleged that the accused persons confessed their involvement in commission of the present case.
4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent and he has been falsely implicated in the present case. The applicant's criminal history of three other cases has been explained in para 10 of the affidavit, in two of which the applicant has been granted bail. It has also been submitted on behalf of the applicant that the co-accused Rajesh @ Kamti Balmiki has already been enlarged on bail by this court by means of an order dated 06.11.2023, passed in Criminal Misc. Bail Application No.12939 of 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 incident in question has taken place on 07.04.2023, whereas the applicant

has been implicated on 13.8.2023; that merely Rs.2100/- cash is said to have been recovered from the applicant, which recovery has not been witnessed by any independent witness and none of the stolen articles have been recovered from the applicant's possession; that the applicant is languishing in jail since 13.08.2023 and a co-accused Rajesh has already been enlarged on 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-Sunil Balmiki** 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 :- 23.11.2023

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