

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14344 of 2023

Applicant :- Shiv Vivek Singh

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

Counsel for Applicant :- Saurabh Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

Heard learned counsel for the applicant, learned A.G.A. and perused the record.

This application has been moved by the applicant - Shiv Vivek Singh to enlarge him on bail in Case Crime No. 375 of 2023 under Sections 409, 420 IPC, Police Station Chinhath, District Lucknow.

It is argued by the learned counsel for the applicant that the applicant is not named in the FIR. It is alleged in the FIR that 25 tones of iron rod was purchased by the first informant on 17.08.2023 from Neel Kamal Steel Private Limited, Patna. The payment was made online and the iron rod was transported from Neel Kamal Steel Private Limited but it never reached to the first informant. It is alleged that on 28.08.2023 some suspicious iron rods were recovered from the applicant, who was apprehended sitting on the tractor wherefrom iron rod is said to have been recovered. It is said to be confessed by Shiv Vivek Singh, the present applicant that he along with co-accused persons had purchased this iron rod at a lower price from truck driver, Ramji Upadhyay on 18.08.2023 and the money recovered from him was the money which he had received after selling that iron rod. It is also said to have admitted that the iron rod which was found in the tractor, was purchased by Anuj Tiwari, who was also present on the tractor at that time. Thus, the applicant has been implicated in the case on the basis of his confession. He was mere sitting on the tractor. The iron rod did not belong to him. The applicant is languishing in jail since 28.08.2023, hence, the prayer for bail is made.

Learned A.G.A. opposed the prayer for bail and submitted that the recovery of Rs. 48,000/- was made from the applicant, which he has admitted to get after selling the iron rod which he

had purchased at a lower price from the driver Ramji Upadhyay, the same driver, who had allegedly eloped with 25 tones of iron rod purchased by the first informant. The attention of the court is drawn towards the statement of Dinesh, an independent witness, who has stated in his statement that it was the present applicant along with other persons, who was indulged in purchasing and selling of stolen iron rod.

From perusal of the record, it is found that the applicant is not named in the FIR. It is alleged that truck driver Ramji Upadhyay eloped with 25 tones of iron rod, which was being transported by him on his truck as a driver from Neel Kamal Steel Private Limited to the first informant, who runs his wholesale firm in the name of B.L. Enterprises. The alleged iron rod is never said to have reached at the destination i.e. firm of the first informant. It is alleged that the applicant is indulged in selling and purchasing of stolen iron rod, but the recovered iron rod is not said to have recognised either by any person from Neel Kamal Steel Private Limited or by the first informant that the recovered iron rod was the same iron rod, which was being transported by the driver, Ramji Upadhyay from Neel Kamal Steel Private Limited, Patna to B.L. Enterprises, Lucknow. The applicant has been implicated in the case on the basis of his confessional statement. The applicant is languishing in jail since 28.08.2023.

Considering the facts and circumstances of the case, perusing the record, the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merits of the case, I find it to be a fit case for granting bail to the applicant.

The bail application is allowed.

Let the applicant - **Shiv Vivek Singh** involved in the aforesaid case be released on bail on furnishing personal bonds and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the date fixed after release.
2. He will not tamper with the witnesses.
3. He will not indulge in any illegal activities during the bail period.

The identity, status and residential proof of sureties will be

verified by the court concerned and in case of breach of any of the above conditions, the court below shall be at liberty to cancel the bail and send the applicant to the prison.

It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 6.12.2023

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