

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14592 of 2023

Applicant :- Surendra Kumar Pathak

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

Counsel for Applicant :- Diwakar Nath Tiwari, Jitendra Kumar Pandey

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 - Surendra Pathak to enlarge him on bail in Case Crime No. 867 of 2023 under Sections 406, 419, 420, 504, 506 IPC, Police Station Kotwali Nagar, District Sultanpur.

It is argued by the learned counsel for the applicant that the offence is of the year 2017 and the FIR was lodged in the year 2023. No plausible explanation has been given in this regard. Neither any gate number nor any amount has been mentioned in FIR. He has received no money from the first informant. When the money was paid to the farmers through RTGS why the alleged amount was paid to the applicant in cash, it has not been made clear. Regarding same property, Case Crime No. 1123 of 2019 was also filed by Siraj Ahmad, the brother of the first informant wherein the applicant has been bailed out. Some cheque is alleged to have been given by the applicant. In the statement under Section 161 Cr.P.C. the first informant has added the name of one more accused person. Regarding criminal history of three cases, it is submitted that in Case Crime No. 831 of 2023 final report has been filed. In another cases he is on bail. The bail orders are appended with the paper book. Co-accused Ravindra Kumar having identical role has been granted bail by the coordinate bench of this court. The applicant is languishing in jail since 02.10.2023, hence, the prayer for bail is made.

Learned A.G.A. opposed the prayer for bail and submitted that the accused is having criminal history of three cases while the co-accused Ravindra Kumar was not having any criminal history as per bail order placed before the court. An amount of

Rs. 60 lakhs is allegedly misappropriated by the applicant.

From perusal of the record, it is found that in the present case no description of the property has been given. The date of payment and the name of witnesses before whom this payment was made, has not been mentioned in the FIR. Any agreement is not said to have been executed between the parties. The property and the dispute between the present applicant Case Crime No. 1123 of 2023 appears to be different. However, the co-accused having similar role has been granted bail by the coordinate bench of this court. The applicant is languishing in jail since 02.10.2023.

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 **Surendra Pathak** 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 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 :- 12.12.2023

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