

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 7931 of 2024

Applicant :- Dinesh Kumar Yadav @ Dinesh Yadav

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

Counsel for Applicant :- Eshan Garg

Counsel for Opposite Party :- G.A.

Hon'ble Shamim Ahmed,J.

Heard Sri Eshan Garg, learned counsel for the applicant as well as Sri Bhaskar Mal, learned A.G.A. for the State and perused the record.

The instant application has been moved by the applicant-Dinesh Kumar Yadav @ Dinesh Yadav for grant of bail in Case Crime No.673/2022 under Section 420 and 409 I.P.C., Police Station-Kotwali Nagar, Barabanki. The bail application No.5529/2023 filed by the applicant in the trial has been rejected by learned Sessions Judge, Barabanki vide order dated 18.12.2023.

Learned counsel for the accused-applicant while pressing the bail application submits that the F.I.R. dated 07.07.2022 under Sections 420 and 406 I.P.C. was lodged by the opposite party against the applicant and other accused persons on false and fabricated facts. No such incident took place as alleged by the opposite party nor there is any allegation against the applicant that he is directly involved in the alleged incident.

Learned counsel for the accused-applicant further submits that as per prosecution story the complainant invested the money in STS Infra Build Private Limited when the complainant asked him to refund her invested money then this fact has come into the knowledge that the above mentioned company committed fraud with her.

Learned counsel for the accused-applicant further submits that it is admitted case of the complainant that she made an investment through cheque of Rs. 3,00,000/- in STS Infra Build Private Limited on the assurance given by the applicant and thereafter the applicant has asked more investment of Rs. 3,00,000/- for securing the earlier invested amount due to company suffering of huge loss in the pandemic period of Covid-19 and further stated that she handed over the cheque of Rs.3,00,000/- to the brother of the co-accused. Learned counsel for the accused-applicant further submits that neither singly penny has been transferred in the account of the applicant by the alleged cheque handed over to the brother of the co-accused

by the complainant.

Learned counsel for the accused-applicant further submits that the STS Infra Build Private Limited firm registered under Companies Act at regional office, Kanpur and all the information regarding business are in public domain and every one can access the same and all the investors have invested their money after due verification of the company and the applicant has no concern with the alleged company or business. He further submits that the alleged company, namely STS Infra Build Private Limited does not belong to the applicant and the applicant has no concern at all. He is neither the Director of such company nor he was the member of such company rather he was only working as an agent in the team of co-accused, namely-Pramod Kumar Verma. This fact has been stated in paragraph 11 of the affidavit filed in support of the application that the applicant is neither the Director nor he was holding any type of membership or office bearer, thus the applicant has been falsely implicated only to create pressure and to defame the image of the applicant in the society.

Learned counsel for the accused-applicant further submits that the complainant made an allegation in the F.I.R. that the co-accused persons were not traceable and their mobile phone was switched off while the applicant has parted ways with the company only in the year 2019. He further submits that the master mind of the company i.e. co-accused persons, namely-Atul Verma, Om Prakash Verma and Pramod Kumar Verma stated in their statements recorded by the police that the present applicant has left the company in the year 2019, thus, he has nothing to do with the business and affairs of the company.

Learned counsel for the accused-applicant while pressing the bail application submits that it is a case of false implication and in fact nothing as shown in the F.I.R. has been recovered from the applicant and F.I.R. has been lodged on the basis of false, concocted and fabricated facts.

Learned counsel for the applicant further submits that there is no possibility of the accused-applicant of fleeing away from the judicial process or tampering with the witnesses. The applicant is a permanent resident of the District Sitapur and there is no chance of his absconding.

Learned Counsel for the applicant further submits that the co-accused persons have already been enlarged on bail by the Coordinate Benches of this Court and the applicant has also been enlarged on bail in most of the cases mentioned in paragraph No.18 of the affidavit filed in support of the bail

application.

Several other submissions regarding legality and illegality of the allegations made in the F.I.R. have also been placed forth before the Court. The circumstances which, according to the counsel, led to the false implication of the accused, have also been touched upon at length. It has been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. The applicant undertakes that in case he is released on bail he will not misuse the liberty of bail and will cooperate in trial. It has also been pointed out that the applicant is not having any criminal history and he is in jail since 29.09.2022 and that in the wake of heavy pendency of cases in the courts, there is no likelihood of any early conclusion of trial.

Learned A.G.A. on the other hand, however, opposes the prayer of bail of the applicant on the ground that the applicant is an accused of heinous offence and he has also played active roll in the transaction of the money, therefore, he is not entitled for any relief, thus, the present application may be rejected.

After perusing the record in the light of the submissions made at the Bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence, the period of detention already undergone, the unlikelihood of early conclusion of trial and also the absence of any convincing material to indicate the possibility of tampering with the evidence and there appears force in the argument of learned Counsel for the applicant that the master mind of the company i.e. co-accused persons, namely-Atul Verma, Om Prakash Verma and Pramod Kumar Verma stated in their statements recorded by the police that the present applicant has left the company in the year 2019, thus, he has nothing to do with the business and affairs of the company; there also appears force in the argument of learned Counsel for the applicant that the applicant is neither the Director nor he was holding any type of membership or office bearer, thus the applicant has been falsely implicated only to create pressure and to defame the image of the applicant in the society and considering the larger mandate of the Article 21 of the Constitution of India and the law laid down by the Hon'ble Apex Court in the case of ***Dataram Singh vs. State of U.P. and another***, reported in (2018) 3 SCC 22, this Court is of the view that the applicant may be enlarged on bail.

The prayer for bail is granted. The application is **allowed**.

Let the applicant, **Dinesh Kumar Yadav @ Dinesh Yadav**, involved in Case Crime No.673/2022 under Section 420 and 409 I.P.C., Police Station-Kotwali Nagar, Barabanki, be enlarged on bail on his executing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned on the following conditions :-

(1) The applicant will not make any attempt to tamper with the prosecution evidence in any manner whatsoever.

(2) The applicant will personally appear on each and every date fixed in the court below and his personal presence shall not be exempted unless the court itself deems it fit to do so in the interest of justice.

(3) The applicant shall cooperate in the trial sincerely without seeking any adjournment.

(4) The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.

(5) In case, the applicant misuses the liberty of bail and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(6) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court default of this condition is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of his bail and proceed against him in accordance with law.

It may be observed that in the event of any breach of the aforesaid conditions, the trial court shall be at liberty to proceed for the cancellation of applicant's bail.

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

Order Date :- 23.7.2024

Piyush/-