

Court No. - 11

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13016 of 2024

Applicant :- Vijay Kumar

Opposite Party :- Cbi/Acb Lko.

Counsel for Applicant :- Shailendra Kumar Tiwari

Counsel for Opposite Party :- Anurag Kumar Singh

Hon'ble Rajesh Singh Chauhan,J.

1.Heard Sri Shailendra Kumar Tiwari, learned counsel for the applicant and Sri Akhilendra Singh, learned Advocate holding brief of Sri Anurag Kumar Singh, learned Counsel for the opposite party/ C.B.I.

2.As per learned counsel for the applicant, the present applicant (Vijay Kumar) is languishing in jail since 23.10.2024 in F.I.R. No.RC0062024A0028, under Sections 7 of the Prevention of Corruption Act, 1988, Police Station-CBI/ACB, Lucknow.

3.Learned counsel for the applicant has submitted that the present applicant has been falsely implicated in this case as he has not committed any offence as alleged in the prosecution story.

4.Learned counsel for the applicant has submitted that the present applicant is serving on the post of Mate (Group-D) employee and was not having position to demand any bribe but the alleged bribe has been shown to be recovered from him. There is no material or evidence with the prosecution to show that the aforesaid bribe was demanded by the present applicant, later on accepted by him, and the amount which has been recovered is the same amount. Though, this fact may be ascertained during the course of trial. The entire service record of the present applicant is unblemished. He has submitted that the offence under which the F.I.R. has been lodged is having punishment only upto seven years. The case is triable by Magistrate. The present applicant is having no prior criminal history of any kind whatsoever. He has further submitted that investigation is going on and he undertakes on behalf of the present applicant that the applicant shall not misuse the liberty of bail, if so granted by this Court, and shall abide by all terms and conditions of the bail order and shall cooperate in the investigation properly.

5.Learned counsel for the applicant has further submitted that the co-accused, Amit Kumar Dwivedi, has been granted bail by this Court vide order dated 28.11.2024 passed in Germinal Misc. Bail Application No.12348 of 2024; Amit Kumar Dwivedi vs. Central Bureau of Investigation/A.C.B., Lucknow, therefore, the present applicant may also be released on bail on the basis of principle of parity.

6.On the other hand, learned counsel for the opposite party/ C.B.I. has opposed the prayer for bail of the present applicant by submitting that since the role of the present applicant was found in the commission of crime, therefore, he is not entitled for grant of bail, but he could not dispute the aforesaid factual contention of learned counsel for the applicant.

7.Having heard learned counsel for the parties and having perused the material available on record; considering the fact that the present applicant is serving on the post of Mate (Group-D) employee; there is no material or evidence with the prosecution to show that the aforesaid bribe was demanded by the present applicant; the offence under which the F.I.R. has been lodged is having punishment only upto seven years; the case is triable by Magistrate; there is no prior criminal history of any kind whatsoever and the undertaking that the applicant shall not misuse the liberty of bail, if so granted by this Court, and shall abide by all terms and conditions of the bail order and shall cooperate in the investigation properly, without expressing any opinion on merits of the case, I am of the view that the present applicant may be released on bail.

8.Accordingly, the instant bail application is ***allowed***.

9.Let the applicant (Vijay Kumar) be released on bail in the aforesaid case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant after release from jail shall appear before the Investigating Officer to cooperate in the investigation properly and shall continue to cooperate in the investigation till completing of the investigation.

(ii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iii) The applicant shall remain present before the trial court on

each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A IPC/269 of the B.N.S., 2023.

(iv) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C./84 of B.N.S.S., 2023 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 IPC/208 of the B.N.S., 2023.

(v) 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./351 of B.N.S.S., 2023. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law. The present applicant shall not leave the country without prior permission of the Court.

[Rajesh Singh Chauhan,J.]

Order Date :- 19.12.2024

Suresh/