

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 25323 of 2022

Applicant :- Ashok Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Malay Prasad, Bed Prakash Rai

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Bed Prakash Rai, the learned counsel for the applicant, Sri D.K. Srivastava, the learned A.G.A. for the State and perused the record.

2. Counter and rejoinder affidavit filed today are taken on record.

3. The present bail application has been filed by the applicant with the prayer to enlarge him on bail in Case Crime No. 62 of 2021, under Section 380 I.P.C. and 66-D of the Information Technology Act, P.S. G.R.P. Kanpur, District Kanpur Nagar.

4. The aforesaid case has been registered on the basis of an F.I.R. dated 16-04-2021 alleging that while the informant was travelling in a train on 05-04-2021, some one had stolen his mobile phone and had withdrawn Rs. 90,000/- from his account.

5. During investigation, the applicant's name surface and he was taken into custody on 18-05-2022.

6. The statement of the informant has been recorded during trial and in his cross-examination, he has stated that he did not see any person stealing his mobile phone and he specifically stated that he had not seen the applicant in the train coach in which he was travelling; that his mobile phone has not been recovered and that the bank has not given any information as to who had made the withdrawal from his account.

7. It has been averred in the affidavit filed in support of the bail application that the applicant is an innocent person, he has been falsely implicated in the case, he is having no previous criminal history and he is in jail since 18-05-2022.

8. The learned A.G.A., on the basis of instructions has opposed the prayer for grant of bail to the applicant. However, he could not dispute the aforesaid aspects of the case.

9. Having considered the aforesaid facts and submissions and keeping in view the fact that in his statement recorded during

trial the informant has not implicated the applicant and also keeping in view the fact that the applicant has no criminal history, I am of the view that the applicant is entitled to be released on bail pending conclusion of the trial. The bail application is accordingly allowed.

10.Let the applicant - **Ashok Yadav** be released on bail in Case Crime No. 62 of 2021, under Section 380 I.P.C.and 66-D of the Information Technology Act, P.S. G.R.P. Kanpur, District Kanpur Nagar on his furnishing a personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

11.In case of breach of any of the above condition, the prosecution shall be at liberty to move an application bail before this Court seeking cancellation of bail.

Order Date :- 10.10.2022

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