

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47134 of 2022

Applicant :- Gokulesh Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kaushik

Counsel for Opposite Party :- G.A.

Hon'ble Suresh Kumar Gupta,J.

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

The applicant is involved in Case Crime No. 146 of 2019, under Sections 409, 420, 467, 468, 471, 477 A, 204, 120- B I.P.C. and Section 66 C, 66 D of the Information Technology Act, Police Station- Jawan District- Aligarh.

Learned counsel for the applicant has submitted that the applicant is innocent and has been falsely implicated in the present case. The applicant is only Secretary of Regional Cooperative Committee. The fund has been misappropriated by Anil Kumar Nanda, who has been granted bail by this Court in Criminal Misc. Bail Application No. 36197 of 2021 on 12.9.2022. The case of the applicant is on better footing than the co-accused Anil Kumar Nanda, therefore, the applicant is liable to be enlarged on bail. The applicant is in jail since 23.7.2022. Also, it has been submitted, the applicant has no criminal history. For the reasons contained in aforementioned order, the present applicant is also entitled for bail. Learned counsel for the applicant has further submitted that if the applicant is released on bail, he would not misuse liberty of bail and is ready to co-operate in the trial.

Learned A.G.A. has, however, opposed the prayer for bail but he has not disputed the above contention made by the learned counsel for the accused-applicant.

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

Let applicant Gokulesh Sharma be released on bail in the aforesaid case crime number on his furnishing a personal bond and two reliable sureties of the like amount to the satisfaction of

the court concerned subject to following conditions, which are being imposed in the interest of justice:-

(i) 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. The applicant shall not tamper with the evidence.

(ii) 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 of the Indian Penal Code.

(iii) 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. 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.

(iv) 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 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.

Order Date :- 23.11.2022

Anuj Singh