

Court No. - 79

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52492 of 2022

Applicant :- Kalamuddin Ansari And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Yadav, Chandan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard Sri Deepak Kumar Ojha, learned counsel holding brief of Sri Saurabh Yadav, the learned counsel for the applicants, Sri Shashi Shekhar Tiwari, the learned A.G.A. for the State and perused the record.
3. The present bail application has been filed by the applicant with the prayer to enlarge them on bail in Case Crime No. 522 of 2022, under Sections 419, 420, 467, 468, 471, 504, 506, 120B IPC and Sections 66(C), 66(D) of the Information Technology Act, Police Station Kotwali Padrauna, District Kushinagar.
4. The aforesaid case has been registered on the basis of an FIR lodged against accused persons (i) Amzad Ali Khan and (ii) Imtiyaz Khan, alleging that the accused persons had sent several persons to Oman by charging Rs. 60,000/- from each of them but two of the persons were arrested by the police in Oman and some other persons did not get employment.
5. The FIR alleges that the named accused persons were not refunding the money paid by the persons for getting employment in Oman.
6. It has been averred in the affidavit filed in support of the bail application that the applicants are innocent persons, they have been falsely implicated in the case, they are having no previous criminal history and they are in jail since 17.9.2022. It has also been stated in the affidavit that there is no possibility of the applicants tampering with any evidence and in such circumstances, the applicants are entitled for bail. It is also stated in the affidavit that the applicant will not misuse the liberty of bail and they will fully cooperate in the investigation.
7. During the investigation, police arrested the named accused persons Amzad Ali Khan and Imtiyaz Khan. In their statements

recorded during investigation, they implicated one Rajesh Shah. Co-accused Rajesh Shah in turn implicated Sonu Alam and in the statement of Sonu Alam, he implicated the applicants and one Wakeel Ansari.

8. Co-accused persons Rajesh Shah and Sonu Alam @ Sahbaz Alam have already been granted bail by means of orders dated 24.11.2022 passed by this Court in Criminal Misc. Bail Application Nos.50274 of 2022 and 50491 of 2022 respectively.

9. *Per contra*, the learned Additional Government Advocate has opposed the prayer for grant of bail.

10. Having considered the aforesaid facts and submissions and keeping in view the fact that although the FIR has been lodged against two named accused persons, applicants have not been made an accused in the FIR; that the co-accused persons Rajesh Shah and Sonu Alam @ Sahbaz Alam, on the basis of whose statements, the applicants have been implicated in the present case, have already been granted bail and also keeping in view the fact that the applicants have no previous criminal history, I am of the view that the applicants are also entitled to be released on bail pending conclusion of the trial. The bail application is accordingly allowed.

11. Let the applicants - **Kalamuddin Ansari** and **Ashik Ansari** be released on bail in Case Crime No. 522 of 2022, under Sections 419, 420, 467, 468, 471, 504, 506, 120B IPC and Sections 66(C), 66(D) of the Information Technology Act, Police Station Kotwali Padrauna, District Kushinagar on their 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 applicants will not tamper with the evidence during the trial.

(ii) The applicants will not influence any witness.

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

(iv) The applicants 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.

12. 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 :- 12.12.2022
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