

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 18030 of 2023

Applicant :- Pinku

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar, Mohit Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Rejoinder affidavit to the counter affidavit filed by the State, is taken on record.
2. Heard learned counsel for the applicant and Sri Shashank Shekhar, learned AGA for the State-respondent.
3. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 1160 of 2022, under Sections 392, 411 IPC, Police Station Baradari, District Bareilly, during the pendency of trial.
4. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested along with co-accused Sajid and has been falsely implicated in the instant case. False recovery of ornaments of yellow and white metal and a country made pistol has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Rs. 15,300/- has also been shown from the applicant. The said amount belongs to him. Co-accused Sajid, who was arrested along with the applicant, has been granted bail by the trial court vide order dated 20.01.2023 passed in Bail Application No.290 of 2023. The applicant claims parity. The criminal history of the applicant has been explained in para 17 of the affidavit. The applicant is in jail since 02.01.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that there is no independent witness to the alleged recovery. At this stage, there is no substantive evidence against the applicant. Co-accused Sajid has been granted bail by the trial court. Further, the applicant has remained confined for more than eleven months and no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper

with the evidence or delay the trial or intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Pinku**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence; and,

(iii) shall not pressurize the prosecution witnesses.

8. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 12.12.2023

Lbm/-