

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 36561 of 2023

Applicant :- Jogindar Singh Alias Yogendra Singh Alias Baboo

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Shekhar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Second supplementary affidavit filed by the learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 108 of 2022, under Sections 392, 120B I.P.C., Police Station Bitra-2, District Gautam Buddha Nagar during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant was not named in the first information report. The applicant has been falsely implicated on the basis of confessional statement of co-accused Tulsi Ram in police custody. The said statement insofar as it implicates the applicant is unreliable. No recovery of any incriminating article has been made from the applicant. The criminal history of the applicant has been explained in Paragraphs-2 to 5 of the second supplementary affidavit. The applicant is in jail since 27.01.2023 and if he is released on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicant was not named in the first information report. No recovery of any incriminating article has been made from the applicant. The applicant has been implicated on the basis of confessional statement of co-accused in the police custody. Moreover, the

applicant has remained confined for almost eight months and after submission of the charge-sheet there is no hope of early conclusion of trial, 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, therefore, 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- Jogindar Singh alias Yogendra Singh alias Baboo, 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 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;
- (iii) shall not pressurize the prosecution witnesses; and,
- (iv) shall appear on the first Sunday of every month at the police station concerned.

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 :- 18.10.2023

SKT/-