

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37223 of 2023

Applicant :- Balisher @ Kallu

Opposite Party :- State of U.P.

Counsel for Applicant :- Kamala Kant Pandey, Shrawan Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Pursuant to the order of this Court dated 04.10.2023, Sri Om Kumar, Investigating Officer is present in Court. He has filed an affidavit. The same is taken on record.
3. Heard counsel for the applicant and learned AGA for the State.
4. 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. 263 of 2023, under Sections 420, 467, 468 & 471 of I.P.C., Police Station- Kotwali, District- Bareilly during pendency of the trial.
5. Counsel for the applicant contends that the applicant was not named in the first information report and has been falsely implicated in the instant case. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. The alleged phone numbers from which calls were made to the informant does not belong to the applicant. At present, there is no evidence to link the applicant with the offence. The criminal history of the applicant has been explained in para no. 4 of the supplementary affidavit. The applicant is in jail since 16.07.2023. In case he is enlarged on bail, he will not misuse the said liberty.
6. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.
7. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that no amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. At present, there is no substantive evidence against the applicant. Further, the applicant

has remained confined for almost three months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant, **Balisher @ Kallu** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

9. 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
Sachin Mishra