

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38291 of 2023

Applicant :- Chaviram

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by 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. 13 of 2021, under Sections 307, 420, 411, 413, 414, 467, 468, 471 I.P.C., Police Station Chandpur, District Bijnor during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. It is a case of firing on police party. No police personnel has received any injury in the alleged incident. False recovery of a country made pistol, a live cartridge and two mobile phones has been shown from the applicant. There is no independent witness to the alleged recovery. Further, recovery of 9 motorcycles has also been shown from the joint possession of the applicant and other co-accused. The said recovery is false and planted. It is next contended that co-accused Chandra Shekhar and Aman, having identical role, have been granted bail by this Court in Criminal Misc. Bail Application No. 19665 of 2021, Chandra Shekhar v. State of U.P., and 16222 of 2021, Aman v. State of U.P., vide orders dated 05.08.2021 and 23.06.2021 respectively. The criminal history of the applicant has been explained in Paragraph-2 of the supplementary affidavit. The applicant claims parity. The applicant is in jail since 07.01.2021 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 there is no independent witness to the alleged recovery and the identically placed co-accused Chandra Shekhar and Aman have been granted bail by this Court. Moreover, the applicant has remained confined for almost nine 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- Chaviram, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two 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; 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 :- 18.10.2023
SKT/-