

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38660 of 2023

Applicant :- Abul Hasan

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Sharma, Prashant Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by the counsel for the applicant 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. 191 of 2023, under Sections 420, 482, 413, 414, 467, 468, 471 IPC, Police Station Saidangali, District Amroha, during the pendency of trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. False recovery of a motorcycle has been shown from the personal possession of the applicant. Recovery of ten motorcycles has also been shown from the joint possession of the applicant and other co-accused persons. There is no independent witness to the alleged recovery. Prior to the instant case the applicant does not have any criminal history, however, after his arrest he has been implicated in other cases. The criminal history of the applicant has been explained in para-3 of the supplementary affidavit. The applicant is in jail since 09.07.2023 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 present there is no substantive evidence against the applicant. Further, the applicant has remained

confined for more than 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let applicant, **Abul Hasan**, 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 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 :- 16.11.2023

Prajapati