

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40142 of 2023

Applicant :- Mahesh Rana

Opposite Party :- State of U.P.

Counsel for Applicant :- Satyendra Kumar Singh

Counsel for Opposite Party :- G.A., Neeraj Tripathi, Raj Kumar Kesari

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicant, Sri Raj Kumar Kesari, learned counsel for the informant and Sri V.P.Tripathi, learned A.G.A. for the State.

2. 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. 193 of 2023, under Sections 363, 311, 370 (5) IPC, Police Station- Bhelupur, District-Varanasi, during pendency of the trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report. He was arrested alongwith four other co-accused persons in an Ertiga Car and has been falsely implicated in the instant case. The alleged vehicle does not belong to the applicant. There is no independent witness to the alleged recovery. At present there is no cogent evidence to connect the applicant with the offence. Identically placed co-accused Gudiya Devi has been granted bail by this Court in Criminal Misc. Bail Application No. 38526 of 2023 vide order dated 04.10.2023. The applicant claims parity. The applicant is in jail since 23.05.2023 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant was not named in the first information report. There is no independent witness to the recovery. At present there is no substantive evidence against the applicant. Further, the applicant has remained confined for more than five 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.

6. Let the applicant- **Mahesh Rana**, 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.

7. 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 :- 8.11.2023

Lbm/-