

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40650 of 2023

Applicant :- Shyam Sundar

Opposite Party :- State of U.P.

Counsel for Applicant :- Brij Bhushan Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, learned AGA for the State-respondent.
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.286 of 2023, under Sections 395, 402, 412 IPC, Police Station Meja, District Prayagraj, during the pendency of trial.
3. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested on 11.07.2023 alongwith co-accused Aniket @ Zalim and Bachchi Lal Gaud and has been implicated in the instant case. False recovery of Indian currency of Rs. 40,000/- and ornaments made of gold and yellow metal has been shown from the applicant. There is no independent witness to the alleged recovery. It is next contended that identically placed co-accused Bachchi Lal Gaud has been granted bail by this Court in Criminal Misc. Bail Application No. 40042 of 2023 vide order dated 21.09.2023. The applicant claims parity. The criminal history of the applicant has been explained in para 2 of the supplementary affidavit. The applicant is in jail since 12.07.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has 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 alleged recovery. At present there is no substantive evidence against the applicant. Identically placed co-accused Bachchi Lal Gaud has been granted bail by this Court. Further, the applicant has remained confined for almost four months 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, 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 **Shyam Sundar**, 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.;

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/-