

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40573 of 2023

Applicant :- Ankur

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Yashpal Yadav, Sunil Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Second supplementary affidavit filed by the counsel for the applicant, is taken on record.
2. Heard learned counsel for the applicant, Sri Abdul Majeed, learned counsel for the informant and Sri Neeraj Kumar Sharma, 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. 211 of 2022, under Sections 354, 354Ka, 354Kha, 504, 506, 452 IPC, Section 9m/10 POCSO Act and Section 3(2) (V.A.) SC/ST Act, Police Station Titawi, District Muzaffar Nagar, during the pendency of trial.
4. Counsel for the applicant submits the applicant has been falsely implicated in the instant case. The applicant did not act inappropriately with the victim. During the course of trial, the informant was examined as PW-1 and victim as PW-2. Both the prosecution witnesses in their examination-in-chief have denied the involvement of the applicant in the alleged offence. PW-1 has been declared hostile by the trial court. The copies of the statements of P.W.-1 and P.W. 2 are collectively annexed as Annexure-SA.1 to the second supplementary affidavit. The applicant is in jail since 09.08.2023 having no criminal history and if he is released on bail, he will not misuse the said liberty.
5. Learned counsel for the informant does not dispute the contention raised by learned counsel for the applicant and submits that he has no objection, if the applicant is released on bail.
6. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
7. After hearing the rival contentions and having perused the record, this Court prima facie finds that the informant/ P.W. 1 and

victim P.W. 2 in their examination in chief have not supported the prosecution version. Further, the applicant has no criminal antecedents and has remained confined for more than three months and 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.

8. Let the applicant **Ankur** 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.

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 :- 20.11.2023

Lbm/-