

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41041 of 2023

Applicant :- Bhagwanva @ Hem Chandra

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Raksha Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant and learned A.G.A. 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. 214 of 2023, under Section 307 IPC and Section 3/25 Arms Act, Police Station- Bisanda, District-Banda, during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. It is a case of firing on the police party. In the alleged incident no police personnel has received injury. In fact the applicant has received injury on his right leg. False recovery of a country made pistol and a live cartridge has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Rs. 3,000/- has also been shown from the applicant. The said amount belongs to the applicant. The criminal history of the applicant has been explained in para 14 of the affidavit. The applicant is in jail since 30.05.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. 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 no police personnel has received injury. There is no independent witness to the alleged recovery. Further, the applicant has remained confined for more than four 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- **Bhagwanva @ Hem Chandra**, 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 :- 17.10.2023

Lbm/-