

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41353 of 2023

Applicant :- Alok Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Raj Kumar Vaishya

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-opposite party.
2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 238 of 2023, under Sections 3, 4, 6, 7, 9 Immoral Trafficking (Prevention) Act, 1956, Police Station Gopiganj, District Bhadohi during the pendency of the trial.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant was not arrested at the spot. The applicant was nominated as an accused in the F.I.R. in pursuance of the statement of co-accused before the police authorities. The said statement insofar as it implicates the applicant is unreliable. The applicant is neither owner nor partner of the alleged Dhaba/hotel. It is next contended that co-accused Rakesh Vajpayee, who was arrested at the spot, has been granted bail by this Court in Criminal Misc. Bail Application No. 39533 of 2023, Rakesh Vajpayee v. State of U.P., vide order dated 09.10.2023. The applicant claims parity. 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.
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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicant was not arrested at the spot and was nominated as an accused in the F.I.R. in pursuance of a statement of co-accused before the police authorities. Named co-accused Rakesh Vajpayee has been granted bail by this Court. The applicant has no criminal antecedents.

Moreover, the applicant has remained confined for almost two months and after submission of the charge-sheet there is no hope of early conclusion of trial, 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, therefore, 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- Alok Kumar, 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 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 :- 12.10.2023
SKT/-