Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42138 of 2023

Applicant :- Ulphat
Opposite Party :- State of U.P.
Counsel for Applicant :- Saurabh Yadav
Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Counter affidavit and supplementary affidavit filed today are taken on record.

2. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

3. This is second bail application on behalf of the accused-applicant. The first bail application was rejected on 17.10.2022. 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. 83 of 2022 under Sections 307, 504 I.P.C., Police Station-Sahaswan, District- Badaun, during the pendency of the trial.

4. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The P.W.1, Hori Lal and the injured P.W.2, Mahaveer, have not supported the prosecution version, in support of contention, the statements of P.W.1 and P.W.2 have been annexed as Annexure No. 4 & 5. It is next contended that, since the witnesses of fact have turned hostile, there is no possibility of conviction of the applicant in the matter who is languishing in jail since 16.2.2022, in case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having regard to the developments as stated above without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Ulphat**, involved in 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;
(iii) shall not pressurize the prosecution witnesses.

8. 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 :- 23.11.2023
S.Verma

Digitally signed by :-
SANDEEP KUMAR VERMA
High Court of Judicature at Allahabad