

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 41071 of 2023

**Applicant :-** Udit Narayan Saxena

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Ram Badan Maurya

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Varma,J.**

1. Heard learned counsel for the applicant and 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. 919 of 2022, under Sections 381, 408, 411, 120-B IPC, Police Station Kotwali, District Mainpuri, during the pendency of trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report. The incident is alleged to have occurred on 22.12.2022 and the first information report was lodged on 26.12.2022. The delay in the facts of the present case is fatal to the prosecution case. The applicant was arrested on 31.12.2022 along with named co-accused Ankit Narayan Saxena, and has been falsely implicated in the instant case. False recovery of Indian currency of Rs. 9 lakhs, a power bank, one mobile phone and ornaments made of gold metal has been shown from the applicant. The recovered Indian currency and gold ornaments cannot be connected with the offence. The applicant is in jail since 31.12.2022 having no criminal history 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 FIR. The first information report has been lodged belatedly and there is no explanation for the same. The applicant has no criminal antecedents. The applicant has remained confined for almost ten 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 **Udit Narayan Saxena**, 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 :- 17.10.2023**

Lbm/-