

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41235 of 2023

Applicant :- Chhaviram Arya

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Kumar Srivastava

Counsel for Opposite Party :- G.A., Mukti Nath Pandey, Pawan Kumar Shukla

Hon'ble Umesh Chandra Sharma, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned counsel for the informant as well as learned A.G.A. for the State and perused the record.
3. 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. 169 of 2023 under Section 388, 389, 341, 506, 120B I.P.C., Police Station- Majhola, District- Moradaba, during the pendency of the trial.
4. Learned counsel for the applicant contends that the applicant has been falsely implicated in the present case. Learned counsel contended that offence under Section 388, 389, I.P.C. would not be made out as no property has been delivered in pursuant to the extortion. Learned A.G.A. has also conceded this fact and states that for commission of offence of extortion, delivery of possession is necessary though according to the prosecution five lakhs rupees was demanded as ransom, however, till now no such amount has been delivered to the accused persons. Learned counsel for the applicant has further contended that co-accused Chhote Lal and Kumari Vijendri have been released on bail by co-ordinate Benches of this Court. The applicant claims parity. The criminal history of the applicant has been explained through supplementary affidavit. The applicant is in jail since 06.07.2023. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned counsel for the informant has opposed the prayer for bail and submitted that accused is the main accused, therefore, his case is distinguishable to other co-accused persons.

6. Having regard to the submissions made above and the fact that the applicant has remained confined for more than two months, and after submission of the charge-sheet, there is no hope of early conclusion of trial, more so when co-accused persons have been granted bail and no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either temper 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.

7. Let the applicant- **Chhaviram Arya**, 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 :- 17.10.2023

S.Verma