

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42228 of 2023

Applicant :- Sajid Baitri @ Shahbaz Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Ali Imam

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. 120 of 2022, under Sections 413, 120B, 34 I.P.C., Police Station Daurala, District Meerut during the pendency of the trial.
3. Learned counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The name of the applicant was disclosed by co-accused Sharad Goswami, who was arrested in Case Crime No. 62 of 2022, under Sections 411, 413, 414, 420, 467, 468, 120-B I.P.C., Police Station Dehli Gate, District Meerut. The said statement, insofar as it implicates the applicant, is unreliable. No recovery of any incriminating article has been made from the possession of the applicant. It is next contended that co-accused Shahrukh has been granted bail by this Court in Criminal Misc. Bail Application No. 3512 of 2023, Shahrukh v. State of U.P., vide order dated 01.03.2023. The applicant claims parity. Prior to the instant case the applicant does not have any criminal history, however, after his arrest, he has been implicated in the other cases. The applicant is in jail since 20.07.2023 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 named in the first information report. The name of the applicant was disclosed by co-accused Sharad Goswami in police

custody. No recovery of any incriminating article was made from the applicant. Co-accused Shahrukh has been granted bail by this Court. Moreover, the applicant has remained confined for more than two and half 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- Sajid Baitri @ Shahbaz Khan, 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 :- 17.10.2023
SKT/-