

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42548 of 2023

Applicant :- Rajesh Babu

Opposite Party :- State of U.P.

Counsel for Applicant :- Kapil Tyagi

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. 256 of 2023, under Sections 420, 467, 468, 471, 34 I.P.C., Police Station Sector 58 Noida, District Gautam Buddha Nagar 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 alleged amount was transferred in the bank account of the named co-accused Abdul Khadar. No money was credited in the account of the applicant. The applicant is not beneficiary of the illicit transaction. The applicant has no concern with the named accused. It is next contended that identically placed co-accused Sudhir Chaudhary and Rajesh Kumar Pandey have been granted bail by this Court in Criminal Misc. Bail Application Nos. 42591 of 2023, Sudhir Chaudhary v. State of U.P., and 41737 of 2023, Rajesh Kumar Pandey v. State of U.P., vide orders dated 13.10.2023 and 26.09.2023 respectively. The applicant is in jail since 12.07.2023 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 named in the first information report. No money was credited in the account of the applicant. The applicant is not beneficiary of the illicit transaction. Identically placed co-accused Sudhir

Chaudhary and Rajesh Kumar Pandey have been granted bail by this Court. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for almost three 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- Rajesh Babu, 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 :- 6.11.2023
SKT/-