

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42509 of 2023

Applicant :- Ejaj Ahmad And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Sushil Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicants and Sri Prateek Tyagi, 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 applicants on bail in Case Crime No. 271 of 2023, under Sections 420, 467, 468, 471 IPC and Section 66 Information Technology (Amendment) Act, Police Station Govind Nagar, District Mathura, during the pendency of trial.

3. Counsel for the applicants submits that the applicants have been falsely implicated in the instant case. False recovery of four Aadhar Cards from personal possession of the applicant no.1 and three Aadhar Cards from personal possession of the applicant no.2 has been shown. Recovery of other articles has also been shown from the joint possession of the applicants and three others. There is no independent witness to the alleged recovery. The recovered articles cannot be connect to the offence. No single transaction has been brought on record to establish that the applicants were engaged in online fraudulent transaction. It is next contended that identically placed co-accused Shahrukh has been granted bail by this Court vide order dated 28.11.2023 passed in Criminal Misc. Bail Application No. 44355 of 2023. The applicants claim parity. The applicants are in jail since 15.08.2023 having no criminal history and in case they are enlarged on bail, they 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 there is no independent witness to the recovery. At this stage, no single transaction of online fraud has been brought on record by the prosecution. Identically placed co-accused, Shahrukh has been granted bail by this Court. The applicants have no criminal antecedents. Further, the applicants have remained confined for more than

three months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicants, 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 applicants are entitled to be enlarged on bail.

6. Let the applicants **Ejaj Ahmad and Shahid**, involved in the aforesaid case be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that they:

(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 :- 30.11.2023

Lbm/-