

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42668 of 2023

Applicant :- Shyambihari @ Shyam Shivhare

Opposite Party :- State of U.P.

Counsel for Applicant :- Sumit Kumar, Chandan Yadav, Deepesh Kumar Ojha, Vimlendu Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Supplementary affidavit filed on behalf of the applicant is taken on record. Counter affidavit filed on behalf of the State is also taken on record.
2. Heard learned counsel for the applicant, learned AGA for the State and perused the record.
3. By means of this bail application applicant seeks bail in Case Crime No.396 of 2023, under Sections 419, 420, 467, 468, 471, 486 IPC, Section 103/104 of the Trade Marks Act, 1999 and Sections 63, 65 of Copyright (Amendment) Act, 1957, Police Station Baberu, District Banda, during the pendency of trial.
4. Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the present case. The applicant is the son of the real owner of the alleged shop. He is not the absolute owner. It is further contended that the products were not prepared and manufactured by the applicant. He has purchased the material in question from the authorized dealer Goldie Paints, Rajdhani Marg, Shukla Ganj, Unnao and Dhriya Traders, Satna for which receipts have been annexed as annexure-3 to the affidavit filed in support of the bail application. He was not knowing that the alleged material was adulterated and was not in accordance with the norms of the JK White Cement and JK Wall Putty. He is law abiding citizen. There is no criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 17.08.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA has vehemently opposed the bail application but he could not dispute the submission made above.

6. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

7. Let the applicant - **Shyambihari @ Shyam Shivhare**, involved in the aforesaid case crime 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 :- 30.10.2023

Shahroz