

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42887 of 2023

Applicant :- Bada Babu Sahni @ Chhotu

Opposite Party :- State of U.P.

Counsel for Applicant :- G.S. Chauhan, Shashank Shekhar Mishra

Counsel for Opposite Party :- G.A., Sanjeev Kumar Yadav

Hon'ble Vivek Varma, J.

1. Case called out in the revised list.
2. Counsel for the informant is not present.
3. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, learned AGA for the State-respondent.
4. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 428 of 2023, under Sections 147, 386, 427, 504, 506 IPC, Police Station Gulriha, District Gorakhpur, during the pendency of trial.
5. Counsel for the applicant contends that the incident is alleged to have occurred on 17.04.2022. The first information report was lodged on 24.05.2023. The delay in the facts of the present case is fatal to the prosecution case. The applicant neither threatened the informant nor demanded any amount from the informant. At present there is no cogent evidence to link the applicant with the offence. The applicant is in jail since 24.05.2023 having no criminal antecedents and in case he is enlarged on bail, he will not misuse the said liberty.
6. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
7. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the first information report has been lodged belatedly. At present there is no substantive evidence against the applicant. Further, the applicant has 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 applicant, 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 applicant is entitled to be enlarged on bail.

8. Let applicant, **Bada Babu Sahni @ Chhotu**, 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 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; and,
- (iii) shall not pressurize the prosecution witnesses.

9. 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 :- 16.11.2023

Prajapati