Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42909 of 2023

Applicant :- Hanuman
Opposite Party :- State of U.P.
Counsel for Applicant :- Keshari Nandan Singh
Counsel for Opposite Party :- G.A.,Rajesh Kumar Dubey,Vinay Kumar Mishra

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant, Sri Rajesh Kumar Dubey, learned counsel for the informant and Sri Dinesh Tiwari, 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 applicant on bail in Case Crime No. 375 of 2023, under Sections 379, 411, 435 IPC, Police Station Sumerpur, District Hamirpur (U.P.), during the pendency of trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The incident is alleged to have occurred on 24.07.2023. The first information report was lodged on 29.07.2023. There is no explanation about the delay in lodging the first information report. False recovery of six tyres has been shown from a place which does not belong to the applicant. There is no independent witness to the alleged recovery. At present there is no substantive evidence to link the applicant with the offence. The applicant is in jail since 20.08.2023 having no criminal history and in case he is enlarged on bail, he 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 delay in lodging the first information report. There is no independent witness to the alleged recovery. The applicant has no criminal antecedents. 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.

6. Let applicant, ***Hanuman***, 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.

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 :- 16.11.2023
Prajapati

Digitally signed by :-
RAMKESH PRAJAPATI
High Court of Judicature at Allahabad