

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42951 of 2023

Applicant :- Afroj

Opposite Party :- State of U.P.

Counsel for Applicant :- Kaushal Kumar Pandey, Anand Ji Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant and Sri Anupam Anand, learned Brief Holder for the State-opposite party.
3. 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. 128 of 2023, under Sections 380, 411 I.P.C., Police Station Mundali, District Meerut during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested on 15.07.2023 along with co-accused Prashant and has been falsely implicated in the instant case. False recovery of ornaments of yellow and white metals has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Indian currency has also been shown from the applicant. The said amount belongs to the applicant. The recovered articles cannot be connected with the offence. It is next contended that identically placed co-accused Prashant has been granted bail by this Court in Criminal Misc. Bail Application No. 40510 of 2023, Prashant v. State of U.P., vide order dated 05.10.2023. The applicant claims parity. The criminal history of the applicant has been explained in Paragraph-3 of the supplementary affidavit. The applicant is in jail since 15.07.2023 and if he is released on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. 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 and there is no independent witness to the alleged recovery. The recovered articles cannot be connected with the alleged offence. Identically placed co-accused Prashant has been granted bail by this Court. Moreover, the applicant has remained confined for more than four 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.

7. Let the applicant- Afroj, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two heavy 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;
- (iii) shall not pressurize the prosecution witnesses; and,
- (iv) shall appear on the first Sunday of every month at the police station concerned.

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 :- 20.11.2023

SKT/-