

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42943 of 2023

Applicant :- Karan

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Kumar Dubey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard Sri Ashwini Kumar Mishra, Advocate holding brief of the Sri Sanjay Kumar Dubey, counsel for the applicant and learned A.G.A. 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. 166 of 2023, under Sections 414, 420, 467, 468 and 471 of IPC, Police Station- Mursan, District- Hathras, during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. False recovery of a motorcycle, a country made pistol and two live cartridges has been shown from the applicant. There is no independent witness to the recovery. Indian currency of Rs. 1320/- has also been recovered from the applicant. The said amount belongs to him. The applicant is in jail since 11.08.2023, having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. 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 alleged recovery. At present, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and had remained confined for more than two months 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, 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 the applicant- **Karan**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties

each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 28.10.2023
Sachin Mishra