

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43072 of 2023

Applicant :- Akshay

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Singh, Km Astha

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. The instant bail application, under Section 439 CrPC, has been filed with a prayer to enlarge the applicant on bail in Case Crime No.38 of 2023, under Sections 392, 411, 413, 414 IPC, Police Station Friends Colony, District Etawah, during the pendency of trial.

3. Learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case due to ulterior motive. The applicant is neither named in the FIR nor arrested on the spot. His name has come into light during the investigation. There is no evidence against the applicant except his confessional statement. The alleged recovery of vehicle and a sum of R.600/- is false and planted as there is no independent witness of the same. The criminal history of the applicant has been explained in paragraph-12 of the affidavit filed in support of the bail application. The applicant is in jail since 06.02.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA has vehemently opposed the bail application and contended that the applicant has criminal history of three cases out of which two cases are related to robbery which shows that the applicant is a habitual offender in robbery. It is also contended that the looted case property i.e. Mahindra Pick-Up bearing Registration No.RJ14 GN9234 containing pomegranate in a huge quantity has been recovered on the pointing of the applicant. It is further contended that now-a-days no independent or public witness comes forward to be a witness. The applicant, if released on bail, may commit such offence again and may tamper with the evidence. Therefore, the accused is not entitled to be enlarged on bail and his bail application is liable to be rejected.

5. Considering the facts and circumstances of the case, submissions of the counsel for the parties and the severity of offence as a vehicle containing huge quantity of pomegranate has been recovered on the pointing of the accused, this Court is of the view that it is not a fit case to grant bail to the applicant at this stage.

6. Accordingly, the bail application is **rejected** at this stage.

Order Date :- 17.11.2023

Vinod/Shahroz