

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44145 of 2023

Applicant :- Vijay

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant and learned AGA for the State.
3. 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. 50 of 2023, under Sections 392 and 411 of I.P.C., Police Station- T.P. Nagar, District- Meerut during pendency of the trial.
4. Counsel for the applicant contends that the applicant was not named in the first informant report. The applicant was arrested on 18.02.2023 and has been falsely implicated in the instant case. False recovery of a country made pistol, a live cartridge, a gold ring of yellow metal and a mobile phone has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Indian currency of Rs. 680/- has also been shown from the applicant. The said amount belongs to him. The recovered mobile phone is not connected with the offence. No test identification parade was got conducted by the Police authorities. It is next contended that the identically placed co-accused, Nasimuddin @ Badda, has been granted bail by this Court in Criminal Misc. Bail Application No. 25572 of 2023 vide order dated 04.07.2023. The applicant claims parity. The criminal history of the applicant has been explained in para nos. 8 and 9 of the bail application. The applicant is in jail since 18.02.2023. In case he is enlarged 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 facts from the record.
6. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that the applicant was not named in the first information report. There is no independent witness to the alleged recovery. Identically placed co-accused,

Nasimuddin @ Badda has been granted bail by this Court. Further, the applicant has remained confined for more almost four months and 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Vijay** involved in the aforesaid case be released on bail on his furnishing a personal bond and two **heavy** 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;
- iii. the applicant shall appear on each and every date fixed by the trial court; and,

(v) 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 :- 3.11.2023
Sachin Mishra