

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43461 of 2023

Applicant :- Shahrukh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashish Kumar Mishra, Mohd Imran Khan

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant and Sri Prateek Tyagi, 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. 597 of 2023, under Sections 420, 467, 468, 471 I.P.C., and Section 66C, 66D I.T. Act, Police Station- Kosikalan, District- Mathura, during pendency of the trial.

3. Counsel for the applicant contends that applicant has been falsely implicated in the said case. Recovery of a mobile phone has been shown from the applicant. The said mobile phone belongs to the applicant. The SIM used in the said mobile phone is not connected to any offence. No single transaction has been brought on record to establish that the applicant was engaged in online fraudulent transaction. It is next contended that identically placed co-accused Kailash has been granted bail by this Court vide order dated 06.11.2023 passed in Criminal Misc. Bail Application No. 45731 of 2023. The applicant claims parity. The applicant is in jail since 30.08.2023, 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 at this stage, no single transaction of online fraud has been brought on record by the prosecution. Identically placed co-accused, Kailash has been granted bail by this Court. The applicant has no criminal antecedents. Further, the applicant has remained confined for almost 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 the applicant- **Shahrukh**, 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 :- 22.11.2023

Lbm/-