

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46188 of 2023

Applicant :- Idrish

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Rakesh Kumar Tripathi, Balendra Deo Misra

Counsel for Opposite Party :- G.A., Manisha Chaturvedi

Hon'ble Vivek Varma, J.

1. Learned AGA submits that notice of the instant application has been served on the opposite party no.3-Child Welfare Committee and opposite party no.4-informant on 12.10.2023. However, when the case is taken up no one appears on their behalf nor any counter affidavit has been filed. Receiving endorsements produced by learned AGA, are taken on record.

2. Heard learned counsel for the applicant, Ms. Manisha Chaturvedi, learned counsel for the opposite party no.2 and Sri Anupam Anand, learned brief holder 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. 276 of 2023, under Section 10 POCSO Act, Police Station Kotwali Maudaha, District Hamirpur, during the pendency of trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. Earlier the applicant was granted bail by this Court under Sections 354, 506 IPC, Section 8 POCSO Act and Section 3(2)(5) a and 3(1) w of SC/ST Act, Police Station Kotwali Maudaha, District Hamirpur vide order dated 01.11.2023 passed in Criminal Misc. Bail Application No. 46169 of 2023. The instant bail application is necessitated by the addition of one more Section i.e. 10 POCSO Act in the charge-sheet. For the reasons stated in the order dated 01.11.2023, the applicant is entitled for bail. The applicant is in jail since 16.07.2023 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

5. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record this Court prima facie finds that the applicant was earlier enlarged on bail by this Court under Sections 354, 506 IPC, Section 8 of POCSO Act and Section 3(2)(5) a and 3(1) w of SC/ST Act, Police Station Kotwali Maudaha, District Hamirpur

vide order dated 01.11.2023 passed in Criminal Misc. Bail Application No. 46169 of 2023. For the reasons stated in the said order and since, 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, 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.

7. Let the applicant **Idrish**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the 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.

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 :- 8.12.2023

Lbm/-