

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43634 of 2023

Applicant :- Bholey Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Maimoona Fatima, Mohd Nasir

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicant, learned A.G.A. for the State and perused the record.
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. 508 of 2023, under Sections 409, 420, 467, 468, 471 I.P.C., Police Station- Atrauli, District- Aligarh during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant is a member of the Managing Committee of Waqf No. 153 Aligarh (Waqf Qabristan and Dargah Peer Saha Waqf No. 153-Aligarh) constituted on 20.4.2023. It appears that after constitution of the said committee, pursuant to a complaint an inquiry was conducted by Deputy Director, Minority Welfare and Waqf with regard to misuse of funds. Thereafter the first information report has been lodged. It is contended that the enquiry was conducted with regard to the activities conducted by the said Waqf prior to its reconstitution on 20.4.2023. The applicant had no concern with the activities of the Waqf prior to 20.4.2023. There is no allegation against any member of the present Managing Committee. It is next contended that the president of the present committee approached this Court by filing Criminal Misc. Anticipatory Bail Application No. 10992 of 2023 and this Court vide order dated 5.10.2023 has granted anticipatory bail. The applicant does not have any criminal history. The applicant is in jail since 19.8.2023. 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 present, there is no substantive evidence against the applicant. The president of the

said committee has been granted anticipatory bail by this Court. The applicant has no criminal antecedents. Further the applicant has presently remained confined for almost two 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 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, **Bholey Khan** 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 tamper 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.

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 :- 13.10.2023
S.S.