

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43986 of 2023

Applicant :- Lal Ji Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Prem Chandra, Nand Lal Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and learned A.G.A. for the State-opposite party.
2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No.1161 of 1996 under Sections 409, 420, 467, 468 and 471 of I.P.C., Police Station- Kotwali Nagar, District- Banda, during the pendency of the trial.
3. Counsel for the applicant contends that the applicant was working as Junior Engineer in Minor Irrigation Department, Govt. of U.P. and had superannuated on 30.06.2019. The first information report was lodged against him regarding the embezzlement of Gram Sabha fund. After departmental enquiry, the applicant had deposited the entire disputed amount. It is further contended that after the retirement of the applicant, he shifted to District- Chitrakoot. The applicant had no information regarding the pendency of instant case. Consequently, warrants were issued by the trial court. The applicant has surrendered on 22.08.2023 and since then he is in jail, having no criminal history. 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 learned 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. Further, the applicant had deposited the disputed amount and has no criminal antecedents, and has remained confined for more than one month 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.

6. Let the applicant- **Lal Ji Yadav**, involved in aforesaid case be released on bail on his furnishing a personal bond and two **heavy** 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.

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 :- 16.10.2023

Sachin Mishra