

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44089 of 2023

Applicant :- Chhattarpal

Opposite Party :- State of U.P.

Counsel for Applicant :- Pankaj Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by the counsel for the applicant, is taken on record.
2. Heard learned counsel for the applicant and Sri Dinesh Tiwari, learned AGA for the State-respondent.
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. 144 of 2023, under Sections 363, 366, 368, 120B IPC, Police Station Sahawar, District Kasganj, during the pendency of trial.
4. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The applicant did not act inappropriately with the victim. The victim in her statement under Section 164 Cr.P.C. has assigned a vague and general to the applicant. It is next contended that it is highly improbable that the applicant along with five others would take the victim forcibly to Delhi by a public transport without raising any protest by her. It is next contended that identically placed co-accused Murari Lal has been granted bail by the trial court vide order dated 23.10.2023. The applicant claims parity. Criminal history of the applicant has been explained in para 19 of the affidavit. The applicant is in jail since 25.06.2023 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 not named in the first informant report. The victim in her statement under Section 164 Cr.P.C. has assigned a vague and general role to the applicant. Identically placed co-accused Murari Lal has been granted bail by the trial court vide order dated 23.10.2023. The applicant has remained confined for more than five 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 **Chhattarpal**, 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; and,

(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 :- 28.11.2023

Lbm/-