

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43952 of 2023

Applicant :- Smt. Shivkali

Opposite Party :- State of U.P.

Counsel for Applicant :- Mudit Agnihotri, Moni Kishor

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and learned AGA for the State-opposite party.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Session Trial No. 771 of 2023 (Shivkali and others vs. State of U.P.) arising out of Case Crime No. 24 of 2023, under Section 4/25 of the Arms Act, Police Station- Ghoorpur, District- Prayagraj, during the pendency of trial.
3. The applicant was granted bail by this Court vide order dated 17.08.2023 passed in Criminal Misc. Bail Application No. 19013 of 2023 under Sections 147, 148, 149, 302, 201, 506 and 34 of I.P.C., Police Station- Ghoorpur, District- Prayagraj. After conclusion of investigation, Section 4/25 of the Arms Act was added by the Investigating Officer.
4. Counsel for the applicant submitted that the applicant is a lady and has been falsely implicated in the present case. No recovery of any incriminating article has been made from the applicant. The recovery of a sharp edged weapon has been made at the pointing out of the other co-accused. There is no independent witness to the alleged recovery. The applicant is in jail since 23.01.2023, having no criminal history and in case, she is enlarged on bail, she 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 there is no independent witness to the alleged recovery. The alleged weapon of assault was recovered at the pointing out of the other co-accused. Further, the applicant is a lady and has no criminal antecedents, and has remained confined for more than eight 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Smt. Shivkali**, involved in the aforesaid case crime be released on bail on her furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that she:

- (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 :- 16.10.2023
Sachin Mishra