Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44241 of 2023

Applicant :- Gulshan Patel
Opposite Party :- State of U.P.
Counsel for Applicant :- Anil Kumar Mishra
Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Anupam Anand, 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. 249 of 2023, under Sections 419, 420, 467, 468, 471 I.P.C., Police Station- Alinagar, District- Chandauli during pendency of the trial.

3. Counsel for the applicant submits that the applicant is the owner of a mobile phone shop namely 'The Mobile Trade Centre'. He was not named in the first information report. He was arrested on 24.8.2023 and has been falsely implicated in the instant case. Neither the applicant had taken any loan nor the loan was taken by any individual from the shop of the applicant. The alleged mobile phone was also not recovered from the possession of the applicant. False recovery of a samsung mobile phone and Rs.520/- has been shown from the applicant. The recovered mobile phone and Indian currency belongs to the applicant. Except the confessional statement of the applicant in police custody at present there is no cogent evidence to link the applicant with the offence. The criminal history of the applicant has been explained in para 21 and 22 of the bail application. The applicant is in jail since 24.8.2023. 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 the applicant was not named in the first information report. Except the confessional statement of the applicant in police custody, at present there is no substantive evidence against the applicant. Further the applicant has presently remained confined for more than 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, **Gulshan Patel** 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 :- 16.11.2023
S.S.

Digitally signed by :-
SIDDHARTH SRIVASTAVA
High Court of Judicature at Allahabad