

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44355 of 2023

Applicant :- Shahrukh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shahbaz Hassan, Salman Ahmad

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 P.D.Tripathi, 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. 271 of 2023, under Sections 420, 467, 468, 471 IPC and Section 66 Information Technology Act, Police Station Govind Nagar, District Mathura, during the pendency of trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of an Aadhar Card has been shown from the personal possession of the applicant. Recovery of other articles has also been shown from the joint possession of the applicant and four others. There is no independent witness to the alleged recovery. The recovered articles cannot be connect to the offence. No single transaction has been brought on record to establish that the applicant was engaged in online fraudulent transaction. It is next contended that identically placed co-accused Ankit has been granted bail by this Court vide order dated 22.11.2023 passed in Criminal Misc. Bail Application No. 43981 of 2023 (Ankit Vs. State of U.P.). The applicant claims parity. The applicant is in jail since 15.08.2023 having no criminal history 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 there is no independent witness to the recovery. At this stage, no single transaction of online fraud has been brought on record by the prosecution. Identically placed co-accused, Ankit has been granted bail by this Court. The applicant has no criminal antecedents. Further,

the applicant has remained confined for more than three 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 **Shahrukh**, 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/-