

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44582 of 2023

Applicant :- Nazim @ Khargosh

Opposite Party :- State of U.P.

Counsel for Applicant :- Zafar Abbas, Imtiaz Husain

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard learned counsel for the applicant, 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 the prayer to enlarge the applicant on bail in Case Crime No. 183 of 2023 under Sections 392, 411, 414 I.P.C., Section 4/25 Arms Act, Police Station- Bhojpur, District- Moradabad, during the pendency of the trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The applicant is not named in the F.I.R. The identification parade has been conducted in violation of guide lines and law. Though in the F.I.R. no details of the jewellery was mentioned, however, after recovery of two chain and 6 earrings from the applicant, the wife of the informant claimed the jewellery to be her own. The allegedly motorcycle has been recovered from the joint possession of the applicant and co-accused of which there is no independent witness nor has it been connected to any crime. The criminal history of the applicant has been explained in para 12 of the supplementary affidavit. The applicant is in jail since 02.07.2023. 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 regard to the submissions made above and the fact that the applicant has remained confined for 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 temper 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.

6. Let the applicant- **Nazim @ Khargosh**, involved in 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;
- (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 :- 2.12.2023

S.Verma