Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44479 of 2023

Applicant :- Bablu Pandey @ Ritesh Kumar Pandey
Opposite Party :- State of U.P.
Counsel for Applicant :- Abhishek Kumar Srivastava
Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.

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. 189 of 2023, under Sections 364, 394, 411, 323, 504, 506, 34 I.P.C., Police Station Mirzamurad, District Varanasi during the pendency of the trial.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. Placing reliance upon the FASTag details of the vehicle number WagonR BR 27M 3550, it is contended that the said vehicle crossed Mohania Toll Plaza, Varanasi on 29.07.2023 at 20:54 hours and Daffi Toll Plaza, Varanasi on 29.07.2023 at 23:13 hours. In such circumstances, it is contended that time of the alleged incident is incorrect. In fact, the container truck dashed the vehicle, in which the applicant was traveling, and as such, an altercation took place between the parties and the applicant along with three others has been falsely implicated in the instant case. The victim has not received any injury. He was recovered on the same day. The incident is alleged to have occurred at a public place. There is no independent witness to the alleged incident. The applicant is a responsible businessman and runs an advertising agency at Bhojpur, Bihar. False recovery of Rs.12,000/- has been shown from the applicant. There is no independent witness to the alleged recovery. It is next contended that identically placed co-accused Dheeraj Kumar Mahraj, Nikhil Singh and Shrawan Kumar have been granted bail by the trial court in Bail Application No. 3892 of 2023, vide order dated 15.09.2023. The applicant is in jail since 31.07.2023 having no criminal history and if he is released 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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that in view of the FASTag details, the time of the alleged incident, at this stage, is not clear. Identically placed co-accused Dheeraj Kumar Mahraj, Nikhil Singh and Shrawan Kumar have been granted bail by the trial court. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for almost three months and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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, therefore, 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- Bablu Pandey @ Ritesh Kumar Pandey, 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 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.

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 :- 6.11.2023
SKT/-

Digitally signed by :-
SHIVA KANT TIWARI
High Court of Judicature at Allahabad