

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44366 of 2023

Applicant :- Akash Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Birendra Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. A supplementary affidavit has been filed today in Court by learned counsel for the applicant. It is taken on record. Let it be numbered by the Office.

2. Heard Mr. B. K. Pandey, learned Counsel for the applicant, learned A.G.A. for the State and perused the record.

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. 249 of 2023, under Sections 419, 420, 467, 468, 471 I.P.C., Police Station- Alinagar, District- Chandauli during pendency of the trial.

4 . Counsel for the applicant submits that the informant had taken a mobile phone on loan from the shop of the applicant. The informant failed to repay the loan amount and in order to harass the applicant he has been implicated in the instant case. It is next contended that the applicant is not named in the F.I.R. There is no criminal history against the applicant, after his arrest in the present case, he has been falsely implicated in two other criminal cases. Except the confessional statement of the applicant in police custody there is no cogent evidence against the applicant. It is also contended that similarly placed co-accused persons have already been enlarged on bail by coordinate Benches of this Court vide order dated 16.11.2023 passed in Criminal Misc. Bail Application No.44334 of 2023 (Jitendra Chauhan Vs. State of UP) and the order dated 16.11.2023 passed in Criminal Misc. Bail Application No.44241 of 2023 (Gulshan Patel Vs. State of UP). He further

submitted that since the role of the applicant is identical to that of aforesaid co-accused who have already been enlarged on bail, he is also entitled to be enlarged on bail on the ground of parity. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 24.08.2023. In case the applicant is released on bail, he will not misuse the said liberty.

5. Learned A.G.A. 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 except the confessional statement of the applicant in police custody there is no substantive evidence against the applicant. The applicant has also been granted bail by this Court in cases of similar nature. Further the applicant has presently remained confined for more than three 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.

7. Let the applicant, **Akash Pandey** 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 :- 24.11.2023

Vijay