

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44465 of 2023

Applicant :- Rocky @ Rakesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Chakravarti Sisodia

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit, filed by the learned counsel for the applicant, is taken on record.
2. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
3. 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. 175 of 2023, under Sections 414, 420, 467, 468, 471 I.P.C., Police Station Kotwali Mursan, District Hathras during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of a country made pistol has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Rs.260/- has also been shown from the applicant. The said amount belongs to the applicant. Except confessional statement of the applicant in the police custody, at present there is no evidence against him. It is next contended that the identically placed co-accused Ravi has been granted bail by this Court vide order dated 19.10.2023 passed in Criminal Misc. Bail Application No. 41667 of 2023. The applicant claims parity. The criminal history of the applicant has been explained in Paragraph-2 of the supplementary affidavit. The applicant is in jail since 18.08.2023 and if he 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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that there is no independent witness to the alleged recovery and except confessional statement of the applicant at this stage there is no substantive evidence

against him. Moreover, the applicant has remained confined for more than two 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.

7. Let the applicant- Rocky @ Rakesh, 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.

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 :- 3.11.2023
S.S.