

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44881 of 2023

Applicant :- Waseem Khan

Opposite Party :- State of U.P.

Counsel for Applicant :- Chandra Prakash Mishra, Satya Dheer Singh Jadaun

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Satya Dheer Singh Jadaun, learned counsel for the applicant, Sri Rupak Chubey, counsel for the first informant, Sri Pankaj Kumar Tripathi, learned A.G.A for the State and perused the material available on record.

2. 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. 220 of 2023, under Sections 395, 147, 323, 504, 506 I.P.C, Police Station- Bhelupur, District- Varanasi, during the pendency of trial.

3. Counsel for the applicant submitted that the applicant is innocent and he has not committed the alleged offence but the police has falsely implicated him in the instant case. It has come into evidence that the applicant - Waseem Khan has returned the alleged money of his share. There is undue delay in lodging the F.I.R as the occurrence had occurred on 29.05.2023, but the F.I.R was lodged after seven days i.e. on 05.06.2023, regarding which no explanation has been given. The applicant was neither arrested on the spot nor was the alleged vehicle was recovered, which was used in commission of the crime nor any looted amount was recovered from him or on his pointing.

4. It is further contended that no proper identification parade has been conducted before the informant. The applicant was arrested from Connaught Place at Delhi. No independent witness has come forward in support of the prosecution story. The applicant has no criminal history to his credit. It is next contended that the co-accused- Ghanshyam Mishra and Pradeep Pandey, having similar role, have been granted bail by this Court in ***Criminal Misc. Bail Application Nos. 39736 of 2023 & 44269 of 2023***, vide orders dated 22.09.2023 and 18.10.2023 respectively. Learned counsel for the applicant has produced the copies of the said orders, which are taken on record. The applicant claims parity. The applicant is in jail since **09.06.2023**. In

case, he is enlarged on bail, they 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 regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of the view that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Waseem Khan**, involved in the aforesaid case crime 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 they:

(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.

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 :- 17.11.2023

Vinod.