

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47705 of 2023

Applicant :- Durgesh @ Mata

Opposite Party :- State of U.P.

Counsel for Applicant :- Brijesh Kumar Kesharwani,Prakash Chandra Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.

2. The FIR in question was lodged against unknown persons for commission of theft. Subsequently, based upon recovery of Rs. 800, a mobile phone and some ornaments, applicant was linked with the offence in question.

3. Learned counsel for the applicant submits that the recovery was not effected from the applicant and the applicant was linked with the offence in question. The recovery memo indicates that two boxes full of ornaments were kept near the driver seat and three persons were sitting nearby. He further submits that the recovery was not made in the presence of any independent witness. He further submits that the applicant has no criminal history in his credit and he is in jail since 8.9.2023, is entitled to be enlarged on bail.

4. Learned AGA has opposed the bail application.

5. Considering the fact that no incriminating article or material has been recovered either from the applicant or on his pointing out, there is no independent witness of the alleged recovery, in view thereof, the application is allowed.

6. Let the applicant **Durgesh @ Mata** be released on bail in FIR No. 794 of 2023, under sections 379 and 411 I.P.C., P.S. Kotwali Nagar, district-Bulandshahar, on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

(a) The applicant shall execute a bond to undertake to attend the hearings;

(b) The applicant shall not commit any offence similar to the

offence of which he is accused or suspected of the commission;
and

(c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Order Date :- 8.11.2023

Faridul