

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44659 of 2023

Applicant :- Mohd. Arshad Alias Mohd. Irshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Jai Prakash Singh,Raj Kiran Chaudhary

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri V.P.Tripathi, learned AGA for the State-respondent.
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. 05 of 2022, under Sections 417, 420, 467, 468, 471, 411, 120B IPC and Section 66C and 66D of Information Technology Act, Police Station Cyber Crime, District Varanasi, during the pendency of trial.
3. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The name of the applicant surfaced during investigation. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. The mobile phone from which the calls were made to the informant, does not belong to the applicant. At present there is no evidence to link the applicant with the offence. It is next contended that identically placed co-accused Pankaj Kumar Yadav has been granted bail by this Court in Criminal Misc. Bail Application No. 38757 of 2023 vide order dated 27.09.2023. Prior to the instant case, the applicant does not have any criminal history, however, after his arrest, he has been implicated in other cases. The applicant is in jail since 13.07.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that no amount has been credited in the account of the applicant. At present, there is no evidence to link the applicant with the offence. Further, the applicant has remained confined for more than three months and

after submission of the charge-sheet 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 delay the trial 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.

6. Let the applicant **Mohd. Arshad @ Mohd Irshad**, 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 the 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 :- 7.11.2023

Lbm/-