

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44894 of 2023

Applicant :- Manish Gupta

Opposite Party :- State of U.P.

Counsel for Applicant :- Prashant Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Anupam Anand, learned brief holder for the State.

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. 456 of 2022, under Sections 380, 457 and 411 of I.P.C. Police Station- Sarnath, District- Varanasi during pendency of the trial.

3. Counsel for the applicant contends that the applicant was not named in the first information report. The applicant was arrested on 09.11.2022 along with the co-accused, Chhotu Bind @ Sahil @ Baba and has been falsely implicated in the instant case. False recovery of ornaments of yellow & white metals and Indian currency of Rs. 54,675/- has been shown from the joint possession of the applicant and the co-accused, Chhotu Bind @ Sahil @ Baba. There is no independent witness to the alleged recovery. Recovery of a mobile phone has also been shown from the applicant. The said mobile phone belongs to him. It is next contended that the co-accused, Chhotu Bind @ Sahil @ Baba, has been granted bail by this Court in Criminal Misc. Bail Application No. 5649 of 2023 vide order dated 10.02.2023. The criminal history of the applicant has been explained from para no. 17 to para no. 24 of the bail application. The applicant is in jail since 09.11.2022. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned brief holder has opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.

5. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that the applicant was not named in the first information report. There is no independent witness to the alleged recovery. The co-accused, Chhotu Bind @ Sahil @ Baba, has been granted bail by this Court. Further, the applicant has remained confined for almost one year 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 delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Manish Gupta** involved in the aforesaid case be released on bail on his furnishing a personal bond and two **heavy** sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- 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 :- 7.11.2023

Sachin Mishra