

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44706 of 2023

Applicant :- Babloo And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajiv Sisodia, Danish

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicants and learned A.G.A. for the State.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicants on bail in Case Crime No. 304 of 2023, under Sections 392, 411 I.P.C., Police Station- Kiratpur, District- Bijnor during pendency of the trial.
3. Counsel for the applicants submits that the applicants were not named in the first information report. The applicant no.1 was arrested on 13.8.2023 and the applicant no.2 was arrested on 10.8.2023 and have been falsely implicated in the instant case. False recovery of a TAB (computer) and Rs.5000/- has been shown from the applicant no.2 and Rs.21900/- has been shown from the applicant no.1. There is no independent witness to the alleged recovery. The recovered TAB (computer) and Indian currency cannot be connected with the offence. The applicants have not been identified on the basis of C.C.T.V. footage. At present there is no cogent evidence to link the applicants with the offence. The criminal history of the applicants have been explained in para 10, 11 and 12 of bail application. The applicant no.1 is in jail since 13.8.2023 and the applicant no.2 is in jail since 11.8.2023. In case they are enlarged on bail, they will not misuse the said liberty.
4. Learned A.G.A. 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 the applicants were not named in the first information report. There is no independent witness to the alleged recovery. At present there is no substantive evidence against the applicants. Further the applicants have presently remained confined for more than three months 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 intimidate the witness, without commenting on the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

6. Let the applicants, **Babloo** and **Banti** involved in the aforesaid case be released on bail on their furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicants shall not tamper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness;
- iii. the applicants 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 :- 16.11.2023
S.S.