

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44868 of 2023

Applicant :- Dushyant

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Mishra, Dharmendra Kumar Mishra, Manoj Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by the counsel for the applicant, is taken on record
2. Heard counsel for the applicant, learned AGA for the State and perused the record.
3. 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. 19 of 2023, under Sections 323, 307 I.P.C. and Section 3/25/27 Arms Act, P.S.- Harduaganj, District- Aligarh, during pendency of the trial.
4. Counsel for the applicant contends that applicant has been falsely implicated in the instant case. During the course of trial, the informant was examined as P.W.1 and the injured was examined as P.W.2. Both the witnesses have not supported the prosecution version and have been declared hostile during their examination-in-chief. The said statements are annexed as Annexure No. S.A.1 and S.A.2 to the supplementary affidavit. The applicant does not have any criminal history. The applicant is in jail since 12.01.2023. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard learned counsel for the parties and having perused the record, this court prima facie finds that both the witnesses have not supported the prosecution case and have been declared hostile. Further the applicant has remained confined for more than ten 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 applicant is entitled to be enlarged on bail.

7. Let the applicant- **Dushyant**, 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 Court concerned subject to the conditions that he:

1. shall appear on the date fixed by the trial court;
2. shall not tamper with the prosecution evidence; and,
3. 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 :- 26.10.2023

Nitika Sri.