

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45862 of 2023

Applicant :- Pushpendra Alias Naina

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Sharma, Anand Mohan 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 learned Counsel for the applicant, learned A.G.A. 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. 175 of 2023, under Sections 414, 420, 467, 468, 471 I.P.C., Police Station- Mursan, District- Hathras during pendency of the trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of a country made pistol and a live cartridge has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Rs.420/- has also been shown from the applicant. The said amount belongs to the applicant. Except the confessional statement of the applicant in the police custody there is no evidence against the applicant. It is next contended that identically placed co-accused Ravi has been granted by this court vide order dated 19.10.2023 passed in Criminal Misc. Bail Application No.41667 of 2023. The applicant claims parity. The criminal history of the applicant has been explained in para 10 of the supplementary affidavit. The applicant is in jail since 18.8.2023. 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 counsel for the parties and having perused the record, this Court prima facie finds that there is no independent witness to the alleged recovery. Except the confessional statement of the applicant in the police custody there is no evidence against

him. Co-accused Ravi has been granted bail by this court. Further the applicant has 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 applicant is entitled to be enlarged on bail.

7. Let the applicant, **Pushpendra Alias Naina** 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 tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court;
- iv. **the applicant shall appear on 1st Sunday of every month at the concerned police station.**

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 :- 22.11.2023
S.S.