

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45168 of 2023

Applicant :- Saurabh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 18 of 2022, under Sections 457, 380, 427 I.P.C., Police Station Pilua, District Etah during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The incident is alleged to have occurred in the intervening night of 4/5.01.2022 and the first information report was lodged on 26.01.2022. The delay in the facts of the present case is fatal to the prosecution case. The name of the applicant was disclosed by co-accused Gaurav @ Bijli in the police custody. The said statement, insofar as it implicates the applicant, is unreliable. No recovery of any incriminating article has been made from the applicant. It is next contended that co-accused Gaurav @ Bijli, having identical role, has been granted bail by this Court in Criminal Misc. Bail Application No. 41586 of 2022, Gaurav @ Bijli v. State of U.P., vide order dated 11.01.2023. The applicant claims parity. The criminal history of the applicant has been explained in Paragraph-2 of the supplementary affidavit. The applicant is in jail since 08.11.2022 and if he is released 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 after

perusal of the record, this Court prima facie finds that no recovery of any incriminating article has been made from the applicant. Identically placed co-accused Gaurav @ Bijli has been granted bail by this Court. Moreover, the applicant has remained confined for almost one year and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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, therefore, 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- Saurabh, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of 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;
- (iii) shall not pressurize the prosecution witnesses; and,
- (iv) shall appear on the first Sunday of every month at the police station concerned.

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 :- 2.11.2023
SKT/-