

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45162 of 2023

Applicant :- Nauman

Opposite Party :- State of U.P.

Counsel for Applicant :- Jagdish Prasad Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
2. 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. 244 of 2023, under Sections 457, 380, 411, 401 I.P.C., Police Station Bhopa, District Muzaffarnagar during the pendency of the trial.
3. Learned counsel for the applicant submits that the incident is alleged to have occurred on 18.08.2023 and the first information report was lodged on 03.09.2023. The delay in the facts of the present case is fatal to the prosecution case. The applicant was not named in the first information report. The buffalo was not recovered from the possession of the applicant. The applicant was arrested on 03.09.2023 along with four other co-accused and has been falsely implicated in the instant case. Recovery of Rs.800/- has been shown from the applicant. The said amount belongs to the applicant. It is next contended that identically placed co-accused Saddam has been granted bail by this Court in Criminal Misc. Bail Application No. 44864 of 2023, Saddam v. State of U.P., vide order dated 01.11.2023. The applicant claims parity. The applicant is in jail since 04.09.2023 having no criminal history and if he is released on bail, he 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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that at present there is no substantive evidence against the applicant. Identically placed co-accused Saddam has been granted bail by this Court. The applicant

has no criminal antecedents. Moreover, the applicant has remained confined for more than one and half months 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.

6. Let the applicant- Saddam, 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:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

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 :- 2.11.2023

SKT/-