

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45452 of 2023

Applicant :- Vishal Mishra

Opposite Party :- State of U.P.

Counsel for Applicant :- Prashant Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Anupam Anand, learned brief holder for the State-respondent.
2. The instant bail applicant under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 76 of 2023, under Sections 411, 413, 414, 420, 467, 468 & 471 of I.P.C., Police Station Jajmau, District Kanpur Nagar, during the pendency of trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. False recovery of a motorcycle has been shown from the personal possession of the applicant. Recovery of other motorcycles has also been shown from the joint possession of the applicant and the other co-accused persons. There is no independent witness to the recovery. Prior to the instant case the applicant does not have any criminal history, however after his arrest he has been implicated in other cases. The applicant is in jail since 14.04.2023, and in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned brief holder 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 having perused the record this Court prima facie finds that there is no independent witness to the recovery. At this stage, there is no substantive evidence against the applicant. Further, the applicant has remained confined for more than seven 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 delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Vishal Mishra**, involved in aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the 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.

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

Sachin Mishra