

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 46060 of 2023

**Applicant :-** Farhan Alias Aiyaan

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Akhilesh Srivastava, Saksham Srivastava

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Varma, J.**

1. Heard learned counsel for the applicant and learned AGA for the State-respondent.
2. 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. 406 of 2022, Sessions Trial No. 2456 of 2022, under Sections 363, 366 IPC, Police Station Sasnigate, District Aligarh, during the pendency of trial.
3. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The victim is a major girl. The victim had gone with the applicant voluntarily to Delhi and stayed with him for five days at Delhi Station. It is next contended that the applicant and the victim were in consensual relationship. The allegations have emerged solely on account of the fact that the parents of the victim have totally disapproved the conduct of the applicant. Further, there are inconsistencies in the statement of the victim under Sections 161 Cr.P.C. and 164 Cr.P.C. The said inconsistencies discredit the prosecution case. There is no allegation of any sexual assault against the applicant. The applicant is in jail since 18.08.2022 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the applicant was not named in the FIR. There are inconsistencies in the statement of the victim under Sections 161 Cr.P.C. and 164 Cr.P.C. At this stage there is no substantive evidence against the applicant. The applicant has no criminal antecedents. The applicant has remained confined for more than a year 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, 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 **Farhan @ Aiyaan**, 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 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; 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 :- 1.11.2023**

Lbm/-