

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45658 of 2023

Applicant :- Bijay Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Saurabh Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Copy of case diary produced by learned AGA, is taken on record.
2. Heard learned counsel for the applicant and learned AGA for the State-respondent.
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. 93 of 2023, under Sections 364, 394, 411 IPC, Police Station Shaktinagar, District Sonbhadra, during the pendency of trial.
4. 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. In the first information report the vehicle number and make was not disclosed. Subsequently, in the statement of the informant, vehicle number was disclosed. The said vehicle does not belong to the applicant. The applicant has no concern with the alleged vehicle. A prior enmity exists between victim and co-accused Dinesh Yadav and Neeraj Yadav. As per the prosecution case, the victim was recovered from the alleged vehicle. However, there is no independent witness to the alleged recovery. Except the confessional statement of the applicant in police custody, at present there is no substantive evidence against the applicant. The said statement is unreliable. The case of the applicant is clearly distinguishable from that of co-accused Dinesh Yadav and Neeraj Yadav. The applicant is in jail since 20.07.2023 having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA 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 the applicant was not named in the FIR. The alleged vehicle does not belong to the applicant. As per the prosecution case, the victim was recovered

from the alleged vehicle. However, there is no independent witness to the alleged recovery. Except the confessional statement of the applicant in police custody, there is no substantive evidence against him. Further, the applicant has remained confined for more than three months and after submission of the charge-sheet 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Bijay Singh** 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;

(iii) shall not pressurize the prosecution witnesses.

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 :- 6.11.2023

Lbm/-