

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45662 of 2023

Applicant :- Aman Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Umair Mahmood

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Dinesh Tiwari, 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.339 of 2023, under Sections 392, 411 and 506 of I.P.C., Police Station Noorpur, District Bijnor during the pendency of the trial.

3. Counsel for the applicant contends that the applicant along with the co-accused were going to attend a marriage ceremony. The Police party, P.S. Noorpur intercepted the applicant, an altercation took place between them. Subsequently, the applicant has been implicated in the instant case. False recovery of a mobile phone and at the pointing out of the applicant and another co-accused recovery of a Bolero vehicle has been shown. There is no independent witness to the alleged recovery. At this stage, there is no cogent evidence to link the applicant with the offence. The applicant is in jail since 02.09.2023, 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 there is no independent witness to the recovery. At this stage, there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for more than two 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- **Aman Chauhan**, 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 :- 23.11.2023

Sachin Mishra