

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47145 of 2023

Applicant :- Vikram Kumar Maddheshiya

Opposite Party :- State of U.P.

Counsel for Applicant :- Mazhar Ullah

Counsel for Opposite Party :- G.A., Virendra Kumar Srivastava

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant, Sri Virendra Kumar Srivastava, counsel for the informant 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. 497 of 2023, under Sections 406, 419, 420, 467, 471, 323, 504 and 506 I.P.C., Police Station Gagaha, District Gorakhpur during the pendency of the trial.

3. At the outset, counsel for the applicant submits that the applicant has returned the amount claimed by the informant through demand drafts bearing Nos. 013464 and 013463 dated 11.10.2023 amounting to Rs. 1,80,000/- and Rs. 4,90,000/- respectively. He submits that at present, no amount of the informant is outstanding against the applicant. He has also drawn the attention of the Court towards the settlement entered between the parties dated 12.10.2023 annexed as Annexure-3 to the bail application. In such circumstances, it is contended that the applicant is entitled for bail. The applicant is in jail since 01.09.2023, having no criminal history and if he is released on bail, he will not misuse the said liberty.

4. Learned counsel for the informant does not dispute the aforesaid submissions and he submits that the informant has no objection if the applicant is released on bail.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the amount claimed by the informant has been returned. The applicant have also entered into a settlement dated 12.10.2023. Further, the applicant has no criminal antecedents and 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.

7. Let the applicant- **Vikram Kumar Maddheshiya**, 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.

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 :- 17.11.2023
Sachin Mishra