

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46966 of 2023

Applicant :- Abusaif

Opposite Party :- State of U.P.

Counsel for Applicant :- Kundan Rai

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri Dinesh Tiwari, 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. 158 of 2023, under Sections 379, 411, 413, 414, 419, 420, 467, 468, 471 IPC, Police Station Bansī, District Siddharthnagar, during the pendency of trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. False recovery of a motorcycle has been shown from the possession of co-accused Anant Kumar @ Badshah. The applicant was the pillion rider. Recovery of nine other motorcycles has also been shown at the pointing out of the applicant. There are no independent witnesses to the alleged recovery. Recovery is false and planted. The criminal history has been explained in para-13 of the bail application. The applicant is in jail since 11.06.2023 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 there is no independent witness to the alleged recovery. 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.

6. Let applicant, ***Abusaif***, involved in the aforesaid case be released on bail on his furnishing a personal bond and ***two heavy 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.

(iv) shall appear on 1st Sunday of every month before the SHO/SO of the police station concerned.

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

Prajapati