

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46931 of 2023

Applicant :- Mohd Shahid

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Naushad Siddiqui, Bipin Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant and Sri Shashank Shekhar, 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. 249 of 2023, under Sections 419, 420, 467, 468, 471 IPC, Police Station Ali Nagar, District Chandauli, during the pendency of trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested on 24.08.2023 along with three other persons and has been falsely implicated in the instant case. Recovery of Rs.650/- and a mobile phone has been shown from the applicant. The recovered Indian Currency and the mobile phone belongs to the applicant. There is no independent witness to the alleged recovery. It is next contended that the applicant has never taken any loan for purchase of mobile phone. Except the confessional statement of applicant in police custody, at this stage, there is no evidence to link the applicant with the offence. Prior to the instant case the applicant does not have any criminal history, however, after his arrest he has been implicated in other cases. The applicant is in jail since 24.08.2023 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 the applicant was not named in the first information report. Except the confessional statement of the applicant in police custody, at this stage, there is

no substantive evidence against the applicant. 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, ***Mohd. Shahid***, 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 :- 23.11.2023

Prajapati