

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48468 of 2023

Applicant :- Nihal Singh @ Nihal Kumr Arya

Opposite Party :- State of U.P.

Counsel for Applicant :- Kameshwar Singh, Sudhanshu Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and Sri Shashank Shekhar Pandey, 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.454 of 2023 under Sections 419, 420, 467, 468, 471 & 120B of I.P.C. and Section 66C of I.T. Act, Police Station- Kotwali, District- Ballia, during the pendency of the trial.
3. Counsel for the applicant contends that the applicant was not named in the first information report and has been falsely implicated in the present case. The name of the applicant was disclosed by co-accused, Juned Ahmad, Jalal Ahmad and Himanshu Barnwal in Police custody. The said statements, insofar as, it implicate the applicant are unreliable. Recovery of laptop and a mobile phone has been shown from the applicant. The said laptop and the mobile phone belongs to the applicant. No recovery of any incriminating article has been made from the applicant. At present, there is no cogent evidence to link the applicant with the offence. The applicant is in jail since 28.08.2023, having no criminal history. In case he is enlarged 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 having perused the record this Court prima facie finds that the applicant was not named in the first information report. The name of the applicant was disclosed by co-accused, Juned Ahmad, Jalal Ahmad and Himanshu Barnwal in Police custody. At this stage, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and has remained confined for more than three months and 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Nihal Singh @ Nihal Kumr Arya**, involved in 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 :- 6.12.2023
Sachin Mishra