

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47824 of 2023

Applicant :- Vishal Awasthi

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri N.K. Mishra, 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. 231 of 2023, under Sections 379, 411, 34 I.P.C., Police Station G.R.P., District Kanpur Nagar during the pendency of the trial.
3. Learned counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested on 27.08.2023 along with another co-accused and has been falsely implicated in the instant case. False recovery of a locket of yellow metal has been shown from the applicant. There is no independent witness to the alleged recovery. Indian currency of Rs. 1000/- and a mobile phone allegedly recovered from the applicant belong to him. The criminal history of the applicant has been explained in Paragraph-10 of the affidavit. The applicant is in jail since 27.08.2023 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 the applicant was not named in the first information report and there is no independent witness to the alleged recovery. Moreover, the applicant has remained confined for almost 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- Vishal Awasthi, 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 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 :- 8.11.2023

SKT/-