

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 47840 of 2023

**Applicant :-** Ghanshyam

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Brijesh Kumar Mishra

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Varma,J.**

1. Heard counsel for the applicant 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.167 of 2023, under Section 370(5) of I.P.C., Police Station G.R.P., District Gorakhpur during the pendency of the trial.
3. Counsel for the applicant contends that the applicant was not involved in trafficking of minor children and has been falsely implicated in the instant case. Placing reliance upon the statements of the father of the victims, annexed as Annexure S.A.-3 to the supplementary affidavit, it is contended that the children were accompanying the applicant voluntarily. The applicant is in jail since 21.09.2023, having no criminal history 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 parents of the minor children have not supported the prosecution version. Further, at this stage, there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Moreover, the applicant 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.
6. Let the applicant- **Ghanshyam**, 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.

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 :-** 22.11.2023

Sachin Mishra