

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48106 of 2023

Applicant :- Arif

Opposite Party :- State of U.P.

Counsel for Applicant :- Prem Chandra Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri N.K. Sharma, learned A.G.A. for the State and perused the record.
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. 207 of 2023, under Section 307/34 I.P.C., Police Station- Etmadpur, District- Agra during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. It is a case of firing on the police party. No police personnel has received any injury. In fact, it is the applicant, who has received injury on his right leg. False recovery of a country made pistol, two live cartridges has been shown from the applicant. There is no independent witness to the recovery. 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 9.7.2023. 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 counsel for the parties and having perused the record, this Court prima facie finds that no police personnel has received any injury. In fact, the applicant has received injury on his right leg. There is no independent witness to the alleged recovery. At his stage, there is no substantive evidence against the applicant. Further the applicant has presently remained confined for more than four 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 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 the applicant, **Arif** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 7.12.2023
S.S.