

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48353 of 2023

Applicant :- Amit Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Singh Sengar

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant and Sri Neeraj Kumar 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. 69 of 2023, under Sections 394, 411 I.P.C., Police Station- Katera, District-Jhansi, during pendency of the trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested along with three other accused after 15 days of the incident and has been falsely implicated in the instant case. False recovery of a mobile phone has been shown from the applicant. There is no independent witness to the recovery. The recovered mobile phone cannot be connected with the offence. The co-accused Mahendra @ Monu has been granted bail by this Court vide order dated 01.11.2023 passed in Criminal Misc. Bail Application No. 44814 of 2023. The applicant is in jail since 05.08.2023 having no criminal history and 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 the applicant was not named in the first information report. There is no independent witness to the recovery. The co-accused Mahendra @ Monu has been granted bail by this Court. The applicant has no criminal antecedents. 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 the applicant **Amit Kumar** 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 temper 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; and,

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 :- 30.11.2023

Lbm/-