

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48463 of 2023

Applicant :- Sompal Bavariya

Opposite Party :- State of U.P.

Counsel for Applicant :- Shabana Nizam, Aamir Nizam

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Shabana Nizam, learned counsel for the applicant, learned AGA for the State and perused the record.
2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.184 of 2023, under Section 392 IPC, Police Station Kothibhar, District Maharajganj, during the pendency of trial.
3. It is argued by the learned counsel for the applicant that the applicant is not named in the FIR; his name has come into picture during investigation. He has not committed the offence as alleged by the prosecution. It is also contended that the criminal history of the applicant has been explained in paragraph-14 of the affidavit filed in support of the bail application. There is no likelihood of his abscondence or tampering with the evidence. The applicant is languishing in jail since 03.08.2023. In case the applicant is released on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail and contends that though the applicant was not named in the FIR but he was recognized through CCTV footage that at the time of the alleged incident the applicant was riding the motorcycle.
5. At this juncture, learned counsel for the applicant contends that if the version of the prosecution is accepted even then the bag containing money was not looted by the applicant. Contrary to that learned AGA further contends that if it was so why Rs.25,000/- was recovered from possession of the applicant for which no explanation could be given on behalf of the applicant.
6. Having regard to the facts, circumstances, the submissions made by the rival parties, the fact that the case is triable by the Court of Magistrate and also the period of incarceration but without commenting on merits of the case, this Court is of

opinion that the applicant has made out a fit case for bail. Accordingly, the bail application is allowed.

7. Let the applicant - **Sompal Bavariya**, involved in the aforesaid case crime 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;

(iii) shall not pressurize the prosecution witnesses;

(iv) shall appear before the concerned SHO to show or establish his bona fide on any day of the first week of every month until further order of 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 :- 6.12.2023

Shahroz