

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48467 of 2023

Applicant :- Saurabh

Opposite Party :- State of U.P.

Counsel for Applicant :- Sunil Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant and Sri V.P. Tripathi, learned AGA for the State.
3. 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. 37 of 2022, under Section 392 of I.P.C., Police Station- Mirhachi, District- Etah during pendency of the trial.
4. Counsel for the applicant contends that the applicant was not named in the first information report and has been falsely implicated in the present case. The name of the applicant was disclosed by co-accused, Gaurav @ Bijli in Police custody. The said statement, insofar as, it implicates the applicant is unreliable. No recovery of any incriminating article has been made from the applicant. It is next contended that the co-accused, Gaurav @ Bijli, has been granted bail by this Court vide order dated 03.08.2023 in Criminal Misc. Bail Application No. 59846 of 2022. The criminal history of the applicant has been explained in para no. 2 of the supplementary affidavit. The applicant is in jail since 08.11.2022. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.
6. Having heard learned 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. The name of the applicant was disclosed by the co-accused, Gaurav @ Bijli in Police custody. Further, the co-accused, Gaurav @ Bijli, has been granted bail by this Court. Moreover, the applicant has remained confined for more than one year 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 delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant, **Saurabh** involved in the aforesaid case be released on bail on his furnishing a personal bond and two **heavy** 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,
- iv. **shall appear on the first Sunday of every month at the Police Station concerned.**

8. 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
Sachin Mishra