Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48974 of 2023

Applicant :- Raj Kumar @ Raja
Opposite Party :- State of U.P.
Counsel for Applicant :- Abhitab Kumar Tiwari
Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri V.P.Tripathi, learned AGA for the State-respondent.

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. 137 of 2023, under Sections 392, 411, 120-B IPC, Police Station Kotwali, District Meerut, during the pendency of trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report. The name of the applicant was disclosed by co-accused Rahul Vaidh in police custody. The said statement insofar as it implicates the applicant is unreliable. False recovery of a country made pistol has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Indian currency of Rs. 2,50,000/-, has also been shown from the applicant. The said amount belongs to the applicant. It is next contended that in the CCTV footage the applicant was not found in the company of co-accused. 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 25.08.2023 and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA 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 FIR. There is no independent witness to the alleged recovery. In the CCTV footage, the applicant was not seen in the company of co-accused Rahul Vaidh. 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 **Raj Kumar @ Raja,** 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 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; 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 :- 24.11.2023
Lbm/-

Digitally signed by :-
LAL BAHADUR MAURYA
High Court of Judicature at Allahabad