

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49278 of 2023

Applicant :- Ankur Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Sheshadri Trivedi, Ajay Kumar Pandey, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, Tyagi, 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. 177 of 2023, under Sections 3A, 3B, 4, 4(1), 4(5), 5, 5(2), 6, 6(c), 18, 18(1), 23, 25, 27, 29, 3(1)A, 3(3)A, 9, 10, 18 of Pre-Natal Diagnostic Techniques (Regulation and Prevention of Misuse) Act, 1994, Section 34 of Indian Medical Council Act and Sections 186, 201, 332, 420, 120-B, 506 IPC, Police Station Bahadurgarh, District Hapur, during the pendency of trial.
3. Counsel for the applicant submits that the applicant was not arrested at the spot and has been falsely implicated in the instant case. The alleged place where the raid was conducted by the Medical Team does not belong to the applicant. The applicant has no concern with the alleged machine relating to determination of sex foetus, recovered from the alleged place. There is no independent witness of the alleged incident. No amount has been credited in the account of the applicant. The applicant is not a beneficiary of the illicit transaction. It is next contended that co-accused Mukesh Kumar has been granted bail by this Court vide order dated 09.10.2023 passed in Criminal Misc. Bail Application No. 38585 of 2023. The applicant is in jail since 13.09.2023 having no criminal history 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 arrested at the spot. No amount has been credited in the account of the applicant. There is no independent witness of the alleged incident. At present, there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further,

the applicant has remained confined for more than two 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 **Ankur Kumar**, 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 :- 2.12.2023

Lbm/-