

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49406 of 2023

Applicant :- Ashwani Kumar Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Adya Prasad Tewari, Km. Khushi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant and Sri Prateek Tyagi, learned AGA for the State.
2. The instant bail applicant under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 0037 of 2023, under Sections 411, 413, 414, 419, 420, 467, 468 of IPC and Section 3/25 of Arms Act, Police Station Airport, District Prayagraj, during the pendency of trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. False recovery of a country made pistol, six live cartridges and a motorcycle has been shown from the the applicant. There is no independent witness to the alleged recovery. Recovery of Rs. 120/- and a mobile phone has also been shown from the applicant. The said Indian currency and the mobile phone belongs to the applicant. It is next contended that the applicant is aged 20 years and a student of B.Sc. Part-1 at Jagpat Singh Singraur Degree College, Begam Bazar, Police Station- Puramufti, District- Prayagraj, whose career will be jeopardized as the result of the instant false case. The applicant is in jail since 03.10.2023, having no criminal history. In case he is released 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 facts from the record.
5. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that there is no independent witness to the recovery. At this stage, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and has remained confined for more than one month 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Ashwani Kumar Sharma** 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; and,
- iii. the applicant shall appear on each and every date fixed by 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 :- 21.11.2023
Sachin Mishra