

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49276 of 2023

Applicant :- Shiva @ Shivam

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhishek Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. The case diary produced by learned A.G.A. is taken on record.
2. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 183 of 2023, under Sections 392, 411 I.P.C., Police Station Nagla Singhi, District Firozabad during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The alleged pulsar motorcycle was not recovered from the possession of the applicant. In fact, it was recovered from the possession of co-accused Monu. The applicant had no concern with the alleged vehicle. No test identification parade was got conducted by the police authorities. The applicant had no role in the alleged incident. The applicant is in jail since 10.10.2023 having no criminal history and if he is released 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 submissions from the record.
6. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that the alleged pulsar motorcycle was recovered from the possession of co-accused Monu. No test identification parade was got conducted by the police authorities. The applicant had no role in the alleged incident. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for more than one month and after submission of the charge-sheet there is no hope of early

conclusion of trial, and 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, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- Shiva @ Shivam, 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 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.

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 :- 20.11.2023

SKT/-