

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49591 of 2023

Applicant :- Amit Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri Neeraj Kumar Sharma, 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. 579 of 2023, under Sections 419, 420, 467, 468, 471, 34 IPC and 66C I.T. Act, Police Station Hapur Nagar, District- Hapur, during the pendency of trial.

3. Counsel for the applicant submits that the applicant was not named in the First Informant Report. The applicant was arrested on 11.08.2023 along with two other persons and has been falsely implicated in the present case. No recovery as alleged was made from the applicant. There is no independent witness to the alleged recovery. Not a single fraudulent transaction has been brought on record by the prosecution. It is next contended that co-accused Umesh and Garima, who were arrested along with the applicant have been granted bail by this Court vide order dated 08.11.2023 passed in Criminal Misc. Bail Application Nos. 47692/2023 and 47669/2023 respectively. The applicant is in jail since 12.08.2023 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 named in the FIR. Not a single fraudulent transaction has been brought on record by the prosecution. The co-accused Umesh and Garima have been granted bail by this Court. At this stage, there is no substantive evidence against the applicant. The applicant has no

criminal antecedents. 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 **Amit Sharma**, 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 :- 6.12.2023

Sharad/-