

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49650 of 2023

Applicant :- Irshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
2. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.443 of 2022 under Sections 454, 380, 411 IPC Police Station Sadar Bazar District Saharanpur.
3. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The applicant was not named in the FIR. The name of the applicant surfaced in the instant case after he was called for inquiry by the police. 163.74 grams of silver and 12.14 gram of yellow substance is alleged to have been recovered from the possession of the applicant. There is no public witness to the alleged recovery. The applicant has criminal history of three cases. It is further submitted that after the implication of the applicant in the instant case, he was falsely implicated in ten more

cases which has been explained in paragraph-11 of the affidavit filed in support of the bail application. The applicant is languishing in jail since 08.03.2023, in case he is enlarged on bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

4. Learned A.G.A on the other hand has opposed the prayer for bail and submitted that the applicant is a habitual offender and he is involved in 13 cases. Heavy recovery of 163.74 grams of silver and 12.14 gram of yellow substance has been made from the possession of the present applicant. The applicant has been nominated as the main accused as per the bail rejection order of the accused applicant. It is also submitted that if the applicant is released on bail he shall again involved in other cases, hence the bail application is opposed.

5. From the perusal of the record it transpires that the applicant is the habitual offender and thirteen cases are shown against the applicant which are not properly explained, the applicant has not been enlarged on bail in many of the cases which are shown as criminal history, heavy recovery of gold and silver is made from the possession of the applicant, though the applicant is not named in the FIR but in cases of theft it is very rare that thief may be named as culprit, hence the applicant is not entitled to be enlarged

on bail.

6. In view of the above discussion, this Court does not find any good ground to release the applicant on bail.

7. Hence the application for bail is rejected at this stage.

(Renu Agarwal,J.)

Order Date :- 30.11.2023

Nadeem