

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49847 of 2023

Applicant :- Irshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri V.P. Tripathi, learned A.G.A. 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. 68 of 2023 under Section 380 and 411 of I.P.C., Police Station- Mandi, District- Saharanpur, during pendency of the trial.
3. Counsel for the applicant submits that the applicant was not named in the first information report. The applicant was arrested on 07.03.2023 in Case Crime No. 48 of 2023, under Sections 414 and 120B of I.P.C., P.S. Janakpuri, District, Saharanpur and has been falsely implicated in the present case. No recovery as alleged in the first information report was made from the applicant. There is no independent witness to the alleged recovery. The recovered items cannot be connected with the alleged offence. The criminal history of the applicant has been explained in para no. 11 of the bail application. The applicant is in jail since 08.03.2023 and in case he is enlarged 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 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 first information report. There is no independent witness to the alleged recovery. At this stage, there is no substantive evidence against the applicant. Further, the applicant has remained confined for more than nine months 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, 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- **Irshad**, 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;
- 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 :- 13.12.2023

Sachin Mishra