

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49476 of 2023

Applicant :- Rohtash

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinay Kumar Singh Chandel

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
2. 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. 557 of 2023 under Sections 386, 342, 120-B I.P.C., Police Station- Nandgram. District-Ghaziabad, during the pendency of the trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. There is inordinate delay of more than two months in lodging the F.I.R. Neither the applicant is named in the F.I.R. nor is arrested from the spot. His name came into light in the light in the statement of informant which was recorded third time and after seven days of lodging the F.I.R., however, the only role assigned to him is that he also shared mens rea with the other co-accused persons. There is no specific allegation that which bar code was sent and used by the applicant. It is next contended that at the most the offence of 120-B I.P.C. can be said to be made against the applicant. No recovery has been made from the applicant. The applicant is in jail since 22.9.2023, having no previous criminal antecedent 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 regard to the submissions made above and the fact that the applicant has remained confined for almost two months more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either temper 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- **Rohtash**, involved in 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;
- (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

S.Verma