

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51063 of 2023

Applicant :- Mohammad Waseek

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Pratap Singh, Anand Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicant and Sri Neeraj Kumar Sharma, 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 a prayer to enlarge the applicant on bail in Case Crime No. 235 of 2022, under Sections 395, 412, 342, 419, 420 I.P.C., Police Station- Utrany, District- Prayagraj, during pendency of the trial.

3. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The name of the applicant was disclosed by co-accused Mohd. Alishan in police custody. The said statement, insofar as it implicates the applicant, is unreliable. No recovery of any incriminating article has been made from the applicant. It is next contended that identically placed co-accused Mohd Waris has been granted bail by this Court vide order dated 04.08.2023 passed in Criminal Misc. Bail Application No. 33082 of 2023. The applicant claims parity. The criminal history of the applicant has been explained in para 12 of the affidavit. The applicant is in jail since 13.10.2023 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. Name of the applicant was disclosed by co-accused Mohd. Alishan in police custody. No recovery of any incriminating article has been made from the applicant. Identically placed co-accused Mohd. Waris has been granted bail by this Court. The applicant has remained confined for more than a month 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, **Mohammad Waseek** 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; and,

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 :- 29.11.2023

Lbm/-