

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 52618 of 2023

**Applicant :-** Sudeep @ Mota

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Ajay Kumar Dwivedi

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Varma,J.**

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant and Sri V.P. Tripathi, learned A.G.A. for the State-respondent.
3. 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. 552 of 2022 under Section 399 and 402 of I.P.C., Police Station- Shikohabad, District- Firozabad, during pendency of the trial.
4. Counsel for the applicant submits that the applicant 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 recovery. It is next contended that identically placed co-accused, Pawan Kashyap @ Katappa and Rahul @ Kabra, have been granted bail by this Court in Criminal Misc. Bail Application Nos. 38794 of 2022 and 40282 of 2022 vide orders dated 26.09.2022 and 10.10.2022 respectively. The applicant claims parity. The criminal history of the applicant has been explained in para no. 2 of the supplementary affidavit. The applicant is in jail since 31.07.2022. The trial is moving at snail's pace and is not likely to conclude early. Inordinate delay in concluding the trial has led to virtually an indefinite imprisonment of the applicant. In case, he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that there is no independent witness to the alleged recovery. Identically placed co-accused, Pawan Kashyap @ Katappa and Rahul @ Kabra, have been

granted bail by this Court. At this stage, there is no substantive evidence against the applicant. The applicant has remained confined for more than one year and four months. Further, 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Sudeep @ Mota**, 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.

8. 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 :- 8.12.2023**  
Sachin Mishra