

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51070 of 2023

Applicant :- Aman And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicants 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 applicants on bail in Case Crime No. 220 of 2023, under Sections 394, 411 I.P.C., Police Station- Urua Bazar, District- Gorakhpur, during pendency of the trial.
3. Counsel for the applicants submits that the applicants were not named in the first information report. The applicants were arrested on 21.10.2023 and have been falsely implicated in the instant case. False recovery of a Samsung Tab, a charger and an Aadhar Card has been shown from the applicants. There is no independent witness to the recovery. The recovered items cannot be connected with the alleged offence. No test identification parade was got conducted by the police authorities. The applicants are in jail since 21.10.2023 having no criminal history and in case they are enlarged on bail, they 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 applicants were not named in the first information report. There is no independent witness to the recovery. The applicants have no criminal antecedents. The applicants have 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 applicants, 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 applicants are entitled to be enlarged on

bail.

6. Let the applicants, **Aman and Subhkar Rajbhar** involved in the aforesaid case be released on bail on their 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 applicants shall not temper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness;
- iii. the applicants 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/-