Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53068 of 2023

Applicant :- Arjun Nishad
Opposite Party :- State of U.P.
Counsel for Applicant :- Anurag Tripathi
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. 283 of 2023 under Sections 147, 323, 377 & 384 of I.P.C. and Section 67 of I.T. Act, Police Station- Sewrahi, District-Kushinagar, during pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The alleged incident occurred on 14.07.2023. The F.I.R. was lodged on 19.07.2023. The delay in the facts of the present case is fatal to the prosecution case. In the first information report, six named co-accused including the applicant and two unknown persons are nominated. A vague and general role has been assigned to the applicant. Allegations of indecent behaviour and making video has not been levelled against the applicant. The applicant is in jail since 30.08.2023, having no criminal history. 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 F.I.R. was lodged belatedly. A vague and general role has been assigned to the applicant. Allegations of indecent behaviour and making video has not been levelled against the applicant. At this stage, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and has remained confined for more than three 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**- Arjun Nishad,** 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 :- 11.12.2023
Sachin Mishra

Digitally signed by :-
SACHIN MISHRA
High Court of Judicature at Allahabad