

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52456 of 2023

Applicant :- Mohidul

Opposite Party :- State of U.P.

Counsel for Applicant :- Raj Singh, Nitin Raj Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicant, Sri N.K. 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. 0384 of 2023, under Sections 328, 381, 212 and 120-B I.P.C., Police Station- Phase-2 Noida, District- Gautam Budh Nagar during pendency of the trial.
3. Counsel for the applicant submits that the applicant was not named in the first information report. During the course of the investigation the name of the applicant surfaced. Except the confessional statement of the applicant in police custody there is no cogent evidence to link the applicant with the offence. No recovery of any incriminating article has been made from the applicant. The applicant does not have any criminal history. The applicant is in jail since 22.8.2023. 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. No recovery of the alleged amount was made from the applicant. At this stage, except the confessional statement of the applicant in police custody there is no substantive evidence against him. The applicant has no criminal antecedents. Further the applicant has presently remained confined for more than three months and 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 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, **Mohidul** 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 tamper 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 :- 7.12.2023
S.S.