

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53666 of 2023

Applicant :- Imran And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Aditya Prasad Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicants 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 applicants on bail in Case Crime No. 401 of 2023 under Sections 411, 413, 414, 420, 467, 468, 471, 482 & 34 of I.P.C. and Section 3/25 of Arms Act, Police Station-Sector 20, District- Gautam Buddh Nagar, during pendency of the trial.

3. Counsel for the applicants contends that the applicants have been falsely implicated in the present case. Recovery of ten vehicles has been shown from the joint possession of the applicants and other co-accused. It is contended that the alleged recovery is false and planted. There is no independent witness to the alleged recovery. Except the confessional statement of the applicants in Police custody, there is no cogent evidence to link the applicants with the offence. Prior to the instant case the applicants do not have any criminal history, however after their arrest they have been implicated in other cases. The applicants are in jail since 16.09.2023 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 there is no independent witness to the alleged recovery. Except the confessional statement of the applicants in Police custody, at this stage, there is no substantive evidence against them. Further, the applicants have remained confined for almost three months and 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- **Imran and Farman**, 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; and,
- iii. the applicants 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 :- 14.12.2023
Sachin Mishra