Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52970 of 2023

Applicant :- Rahul
Opposite Party :- State of U.P.
Counsel for Applicant :- Hanuman Deen Verma
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. 304 of 2023 under Section 394, 504 and 411 of I.P.C., Police Station- Bakhira, District- Sant Kabir Nagar, during pendency of the trial.

3. Counsel for the applicant contends that the applicant was not named in the first information report. The applicant was arrested along with two other co-accused and has been falsely implicated in the instant case. False recovery of a mobile phone has been shown from the applicant. There is no independent witness to the alleged recovery. No test identification parade was got conducted by the police authorities. It is next contended that identically placed co-accused, Sunil, who was arrested along with the applicant, from whose possession Rs. 2,300/- was recovered, has been granted bail by this Court vide order dated 05.12.2023 passed in Criminal Misc. Bail Application No. 50415 of 2023. The applicant claims parity. The criminal history of the applicant has been explained in para no. 23 of the bail application. The applicant is in jail since 12.09.2023. 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. There is no independent witness to the alleged recovery. No test identification parade was got conducted by the police authorities. Identically placed co-accused, Sunil, has been granted bail by this Court. Further, the applicant has remained confined for almost 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**- Rahul,** 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