

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53132 of 2023

Applicant :- Mohd. Asif

Opposite Party :- State of U.P.

Counsel for Applicant :- Sikandar Khan

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri Prateek Tyagi, 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. 227 of 2023, under Sections 386, 406, 420, 504, 506, 34, 419, 467, 468, 471 I.P.C., Police Station- Cantt, District- Prayagraj during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The date of payment of Rs.2,00,000/- to the informant has not been disclosed in the first information report nor in the statement of the informant. The prosecution story does not inspire confidence. False recovery of a country made pistol has been shown from the applicant. There is no independent witness to the alleged recovery. Recovery of Rs.60,000/- has been shown from the applicant. The said amount belongs to him. The applicant does not have any criminal history. The applicant is in jail since 18.10.2023. 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 there is no independent witness to the alleged recovery. At this stage there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further the applicant has presently remained confined for more than one month 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, **Mohd. Asif** 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 :- 12.12.2023
S.S.