

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 54181 of 2022

Applicant :- Moti Lal Jaiswal

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajendra Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Gajendra Kumar,J.

Heard learned counsel for the applicant as well as learned Additional Government Advocate for the State of U.P. and perused the record.

The present bail application has been filed by the applicant seeking bail in Case Crime No.274 of 2022, under Sections 411, 413, 414, 216-A IPC, Police Station- Kotwali, District- Azamgarh.

As per the prosecution story, on 14.06.2022, when informant had gone for morning walk, an unknown person came from behind side and snatched her gold chain from her neck and ran away from the spot.

Learned counsel for the applicant has argued that the applicant is innocent and has been falsely implicated in the present case due to ulterior motive. Further submission is that the applicant has been roped in the present case due to enmity. Neither applicant is named in the FIR nor informant (victim) has disclosed the name of the applicant in her statement recorded under Section 161 Cr.P.C. Applicant is not arrested on the spot. During investigation, his name came into light on the confessional statement of the co-accused. False recovery of two chains of yellow metals have been shown as recovered from the possession of the applicant as there is no any independent eye witness to the said recovery. Applicant is no way involved in committing the aforesaid offence. Apart from this case, applicant does not have criminal history. There is no prospect of trial of the present case being concluded in near future due to heavy dockets. It is also submitted that there is no apprehension that after being released on bail, he may flee from the course of law or may, otherwise, misuse the liberty of bail and the applicant is in jail since 08.09.2022 and the possibility of conclusion of trial in near future is very bleak.

Learned A.G.A. has vehemently opposed the prayer for grant of bail, but he has not disputed the above contention made by the

learned counsel for the applicant.

In this matter, it appears that applicant is not named in the FIR and he is not arrested on the spot; informant (victim) has not disclosed the name of the applicant in her statement recorded under Section 161 Cr.P.C.; he is made accused on the basis of the confessional statement of the co-accused; there is no independent eye witness to the alleged recovery; applicant does not have any criminal history coupled with the fact that applicant is languishing in jail since 08.09.2022 grounds for bail is sufficient.

Considering the facts and circumstances of the case, perusing the record and also considering the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a fit case for granting bail.

Let the applicant, **Moti Lal Jaiswal** involved in above mentioned case crime number be released on bail on their executing a personal bond and two reliable sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:

- (i) The applicant shall not tamper with the evidence.
- (ii) The applicant shall not indulge in any criminal activity.
- (iii) The applicant shall not threaten the informant and witnesses and further shall cooperate in the investigation.
- (iv) The applicant will appear regularly on each and every date fixed by the trial court unless his personal appearance is exempted through counsel by the court concerned.

In the event of breach of any of the aforesaid conditions, the learned court below will take recourse to law of cancellation of bail of the applicant.

Order Date :- 8.12.2022

Ashutosh