

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12834 of 2023

Applicant :- Alaj

Opposite Party :- State of U.P.

Counsel for Applicant :- Virendra Jaiswal

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard Sri Virendra Jaiswal, counsel for the applicant and learned AGA for the State.

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.790 of 2022, under Sections 147, 148, 323, 504, 506, 307 I.P.C., Police Station- Baradari, District- Bareilly, during pendency of the trial.

3. Learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. As per the allegations in the F.I.R. five persons including the applicant are alleged to have assaulted Mohammad Irfan, Gulam Nabi and Bashir Ahmad. A vague and general role has been assigned to the applicant in the F.I.R. In the statement of two injured Mohd. Gulam Nabi and Bashir Ahmad, no role has been assigned to the applicant, whereas Mohd. Irfan alleged that the applicant has caused injury to Adil Parvej. It is contended that Adil Parvej is father of the applicant. At this stage, there is no clarity with regard to the role of the applicant. The applicant has not been nominated as the principal offender, who caused the injury to the injured persons. The criminal history of the applicant has been explained in para 16 of the affidavit and para 2 of the supplementary affidavit. It is next contended that the co-accused Teepu has been granted bail by this Court passed in Criminal Misc. Bail Application No. 55540 of 2022 vide order dated 04.01.2023. The applicant is in jail since 24.08.2022 and in case he is released 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 facts from the record.

5. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that a vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused injury to the injured persons. At present, there is no substantive evidence against the applicant. Identically placed co-accused Teepu has been granted bail by this Court. Further, the applicant has remained confined for more than one year 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- Alaj, 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; and,
- 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 :- 27.10.2023

Ruhi H.