

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 17154 of 2023

Applicant :- Ashirvad Sonkar

Opposite Party :- State of U.P.

Counsel for Applicant :- Ranjeet Sonker, Amit Kumar Shrivastava, Brijesh Kumar Pandey, Vikrant Rana, Vrat Sheel

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Supplementary affidavit filed today is taken on record.
2. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
3. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.115 of 2023 under Sections 147, 307 IPC Police Station Gorakhnath District Gorakhpur.
4. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The applicant was not named in the FIR. The name of the applicant surfaced in the statement of the informant. No specific allegation has been levelled against the present applicant. No statement of the injured has been recorded till date. As per medical report 'no gross abnormality was detected'. Apart from the instant case the applicant has criminal history of two more cases in which the applicant has already been enlarged on bail by the learned trial court itself. Bail order of Case Crime No. 08 of 2022 is annexed with the supplementary affidavit dated 21.04.2023 as annexure No.7 whereas the bail order of Case Crime No. 317 of 2022 is annexed

with the supplementary affidavit filed today as annexure No. 4. Identically situated co-accused Shivendra Singh @ Shani Singh and Mudit Pandey have already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application Nos.16457 of 2023 and 19850 of 2023, vide orders dated 26.04.2023 and 21.09.2023 respectively. The applicant is seeking parity in relief granted to the aforesaid co-accused. The applicant is languishing in jail since 14.03.2023, in case he is enlarged on bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

5. On the other hand, learned AGA has opposed the prayer for bail and submitted that the applicant was identified from the CCTV footage and he was found assaulting the injured, however, he could not controvert the aforesaid factual matrix.

6. Considering the facts and circumstances of the case and taking into account that the accused-applicant was not named in the FIR, no specific allegation has been levelled against the applicant only general allegations have been made, according to the medical report no specific abnormality is seen, identically situated co-accused Shivendra Singh @ Shani Singh and Mudit Pandey have already been enlarged on bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application Nos.16457 of 2023 and 19850 of 2023, vide orders dated 26.04.2023 and 21.09.2023 respectively and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

7. The bail application is allowed.

8. Let applicant-Ashirvad Sonkar be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in

accordance with law.

(v) The applicant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 20.11.2023

Nadeem