

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 20952 of 2023

Applicant :- Arun Kumar @ Lokesh @ L.B.

Opposite Party :- State of U.P.

Counsel for Applicant :- J.B. Singh

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-opposite party.

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. 1102 of 2019, under Sections 307/386/120B, Police Station-Bisrakh, District- Gautam Buddh Nagar, during the pendency of trial.

3. Counsel for the applicant contends that the applicant was not named in the first information report and has been falsely implicated in the instant case. The name of the applicant was disclosed by co-accused Titoo @ Shiv Kumar and Sumit in police custody. The said statements, insofar as, it implicate the applicant are unreliable. It is next contended that in the alleged incident no person has received any injury. It is further contended that identically placed co-accused, Titoo @ Shiv Kumar & Sumit, have been granted bail by this Court in Criminal Misc. Bail Application Nos. 12191 of 2020 & 6282 of 2020 vide order dated 17.04.2020 & 11.02.2020 respectively. The applicant claims parity. The criminal history of the applicant has been explained in paragraph no. 20 of the affidavit, paragraph no. 4 of the first supplementary affidavit & paragraph no. 3 of the second supplementary affidavit. It is next contended that the applicant is in jail since 30.11.2019. The trial is moving at snail's pace and is not likely to conclude early. Inordinate delay in concluding the trial has led to virtually an indefinite imprisonment of the applicant. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned brief holder for the State has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. 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. The name of the applicant was disclosed by the co-accused, Titoo @ Shiv Kumar and Sumit in Police custody. Identically placed co-accused, Titoo @ Shiv Kumar & Sumit, have been granted bail by this Court. Further, the applicant has remained confined for more than four years and after submission of the charge-sheet 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 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.

7. Let the applicant- **Arun Kumar @ Lokesh @ L.B.**, involved in the aforesaid case crime be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

8. 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 :- 7.12.2023

Aditya