

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 25160 of 2023

Applicant :- Sunil

Opposite Party :- State of U.P.

Counsel for Applicant :- Akhilesh Kumar Dwivedi

Counsel for Opposite Party :- G.A.,Kristen Sleeth,Meera Devi,Umesh Kumar Kushwaha

Hon'ble Mrs. Renu Agarwal,J.

1. Heard learned counsel for the applicant, learned counsel for the informant, learned A.G.A. for the State and perused the record.
2. The present first bail application has been filed on behalf of the applicant in Case Crime No. 09 of 2023 under Sections 307, 323, 504, 506 I.P.C. Police Station Binauli, District Baghpat with the prayer to enlarge him on bail.
3. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. F.I.R. was lodged with allegation that the measurement was undertaken by the Lekhpal and when the wife of the informant reached the spot, accused persons have assaulted as a result of same, wife of informant has suffered injuries. It is further submitted that eight injuries have been suffered by the injured and as per injury report, injury No. 1 is on frontal region of skull. It is further submitted that according to the statement of injured Geeta, injury No. 1 has been caused by spade by Sanjay and the applicant has been assigned general role of beating by stick. It is further submitted that main accused is Sanjay and the applicant's role is general. It

is next contended that no weapon is recovered from his possession. According to the supplementary medical report, Hemorrhagic contusion is found in right temporal region, and fracture of right parietic temporal bone, right ramus of mandible, body of mandible bone is found and no injuries are found grievous in nature. It is next contended that identically situated co-accused person, Kala @ Chandram has already been enlarged on bail by co-ordinate Bench of this Court vide order dated 28.07.2023 passed in Criminal Misc. Bail Application No. 15094 of 2023. The applicant is languishing in jail since 10.3.2023 having no criminal history as is disclosed in paragraph No. 17 of the bail application. It is lastly submitted that since the role of the present applicant is identical to that of co-accused, who has already been enlarged on bail, present applicant is also entitled to be enlarged on bail on the ground of parity and if he is granted the liberty of bail he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds.

4. On the other hand, learned counsel for the informant and learned AGA has vehemently opposed the prayer for bail but could not controvert the fact that identically situated co-accused has been enlarged on bail.

5. Considering the fact that no weapon is recovered from the possession of the applicant, applicant has been assigned general role of assault, victim herself stated in her statement that main accused is Sanjay and rest of the accused have been assigned general role of assault coupled with the fact that identically situated co-accused has been enlarged on bail and without expressing any opinion on the merits

of the case, accused-applicant is liable to be released on bail.

6. Let applicant, **Sunil** be released on bail in the above case crime number and 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 :- 16.10.2023

Karan