

Court No. - 89

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32076 of 2023

Applicant :- Brijlal Bharteeya And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Manvendra Singh, Dinesh Kumar Tripathi, Nirbhay Singh

Counsel for Opposite Party :- G.A., Anil Kumar Shukla, Sharad Tripathi

Hon'ble Deepak Verma, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.
2. The instant bail application has been filed with a prayer to release the applicants on bail in Case Crime No.266 of 2020, registered under Sections 147, 323, 504, 506, 308 I.P.C., Police Station Kaundhiyara, District Prayagraj during pendency of the trial.
3. Learned counsel for the applicants submitted that the applicants are innocent and has been falsely implicated in the present case due to ulterior motive. The incident is said to have committed with lathi and danda whereby three persons have been injured and one Raj Karan sustained serious injuries. Injured Geeta and Savita as alleged in the FIR, has not been examined and no medical report is available to the prosecution. As per statement of the injured-Raj Karan, no specific role has been attributed to the applicants for causing injury. He further submitted that co-accused, namely, Asharfi Lal, Shani and Rajesh have been granted bail by this Hon'ble Court vide order dated 12.04.2023 and 26.04.2023 and the role of applicants is similar to the co-accused, hence the applicants are also entitled to be enlarged on bail on the ground of same footing. The applicants are languishing in jail since 06.07.2023. In case, the applicants are released on bail, they will not misuse the liberty of bail and co-operate in trial.
4. Learned A.G.A. and learned counsel for the informant have vehemently opposed the bail prayer of the applicants and submitted that applicants' role are different from the role of other co-accused, who have been granted bail as there is specific role

has been assigned against the applicants for causing injuries to the injured as the injured has received grievous injuries, hence, the applicants are not entitled to be enlarged on bail.

5. Considering the entire facts and circumstances of the case, submissions of learned counsel for the parties and keeping in view the nature of offence, evidence, complicity of accused and without expressing any opinion on the merits of the case and the law laid down by the Apex Court in **Satendra Kumar Antil Vs. C.B.I. & Another, S.L.P.(Crl.) No. 5191 of 2021**, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

6. Let the applicants, namely, **Brijal Bharteeya** and **Bade Lal @ Ajay Kumar Bharteeya**, who are involved in the aforesaid case crime, be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

i. The applicants shall not tamper with the prosecution evidence by intimidating/ pressurizing the witnesses, during the investigation or trial.

ii. The applicants shall cooperate in the trial sincerely without seeking any adjournment.

iii. The applicants shall not indulge in any criminal activity or commission of any crime after being released on bail.

7. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

Order Date :- 31.10.2023

Nitin Verma