

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35348 of 2023

Applicant :- Prince

Opposite Party :- State of U.P.

Counsel for Applicant :- Kuldeep Kumar,Amit Daga,Pawan Kumar
Bhardwaj,Pramod Bhardwaj

Counsel for Opposite Party :- G.A.,P K Mishra,Pankaj Kumar Mishra

Hon'ble Vivek Varma,J.

1. Heard Sri Amit Daga and Sri Pramod Bhardwaj, learned counsel for the applicant, Sri Pankaj Kumar Shukla, learned counsel for the informant and Sri V.P.Tripathi, learned AGA for the State-respondent.

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.171 of 2023, under Sections 147, 148, 323, 324, 307, 325, 326 IPC, Police Station Jewar, District Gautam Budh Nagar, during the pendency of trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, six named persons including the applicant and one unknown person are alleged to have assaulted the informant and his father by sharp edged weapons. As per the medical report, the father of the informant Sahab Singh received six injuries. The injuries no. 1, 2, 3 and 4 are on non vital part of the body. The injury no.5 is a lacerated wound over left eyebrow and injury no. 6 is a wound on left eye and over left cheek. The injury no. 5 and 6 were referred for C.T. Scan. As per the C.T.Scan report of orbits plain and NCCT head Dr. Adil Hussain Malik in his statement dated 01.07.2023, opined that the lens of the left eye of the injured Sahab Singh was dislocated. There is no visibility in the said eye and further the injured has sustained a fracture of nasal bone. No medical report is available with regard to the informant. The statement of the informant and the injured Sahab Singh was recorded on 26.06.2023. In the said statements also no specific role was assigned to the applicant. A general and vague role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injury nos. 5 and 6. It is further contended that the injuries no. 1 to 4 are on non vital part of the body. Only injuries no. 5 and 6 are grievous in nature. At this stage, author of the said injuries are not known. The applicant is in jail since 03.07.2023 having no criminal

history and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that six named persons including the applicant and one unknown person has been nominated in the FIR. A vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injury nos. 5 and 6 upon the injured Sahab Singh. At this stage, there is no clarity with regard to the role of the applicant. The applicant has no criminal antecedents. Further, the applicant has remained confined for more than four months 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant **Prince**, involved in the aforesaid case 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;

(iii) shall not pressurize the prosecution witnesses.

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 :- 8.11.2023

Lbm/-