

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37382 of 2023

Applicant :- Raja And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Jatan Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vikram D. Chauhan,J.

1. Learned A.G.A. for the State submits that instructions have been received and has no objection in case the bail application is heard on merits.

2. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

3. It is submitted by learned counsel for the applicants that as per first information report, the informant who is Branch Manager of the Bank along with Tehsil Authorities went to the house of the co-accused Shahid Parvez for recovery of the loan where the accused persons have collected and they have assaulted the recovery team as a result of same, recovery team has sustained injuries. Injury reports have been filed along with the supplementary affidavit. Three injured persons have sustained simple injuries and have been caused by hard and blunt object. It is further submitted that co-accused Shahid Parvez has already been enlarged on bail by this Court by order dated 17.10.2023 passed in Criminal Misc. Bail Application No.42869 of 2023, copy of which has been produced for perusal. The applicants have no previous criminal history. Applicants are languishing in jail since 21.7.2023 and in case they are released on bail, they will not misuse the liberty of bail and will cooperate in the trial.

4. Learned A.G.A. for the State opposed the prayer for bail but does not dispute factual matrix of the case.

5. Learned AGA for the State has not brought any fact or circumstances to indicate criminal history or antecedents of the applicants which would disentitle the applicants for Bail.

6. It is not the case of the State that there is a possibility of

interdicting fair trial by the accused-applicants if released on bail. No material has been shown that the Applicants are of such character that their mere presence at large would intimidate the witnesses or there is any material to show that applicants will use their liberty to subvert justice or tamper with the evidence.

7. The object of the bail is to secure the attendance of the accused, the detention of the accused pending trial cannot be punitive in nature as there is presumption of innocence in favour of the accused person. Learned A.G.A. has not brought any facts and circumstances to demonstrate that the character of the accused-applicant (s) is such that their mere presence at large would intimidate the witness.

8. Learned A.G.A. has not placed any reasonable apprehension of the witnesses being tampered with, the larger interest of the public/State will be at peril in case the Applicants are released on bail.

9. It is not the case of the State that the applicants have been convicted for any offence on previous occasion.

10. No material has been placed by the opposite party that the Applicants in the past have attempted to evade the process of law. Further, no material facts and circumstances have been placed to show that it is not in public interest or interest of society at large to release the applicants on bail.

11. No material has been shown to suggest that the applicants are at flight risk, has chance of repeating the offence, or intimidating the witness if enlarged on bail.

12. Considering the facts and circumstances of the case, nature of offence, evidence, complicity of the accused, submissions of learned counsel for the parties and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for bail. The bail application is allowed.

13. Let the applicants **Raja, Rashid** and **Ravi** involved in Case Crime No.150 of 2023, under Sections 147, 148, 149, 332, 353, 323, 307, 427, 504, 34 IPC and Section 7 Criminal Law Amendment Act, Police Station Achhnera, District Agra be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the following conditions:-

- i. The applicants will not tamper with the evidence during the trial.
 - ii. The applicants will not pressurize/intimidate the prosecution witness.
 - iii. The applicants will appear before the trial court on the date fixed, unless personal presence is exempted and/or the applicants shall make themselves available for interrogation by a police officer as and when required.
 - iv. The applicants shall not commit an offence similar to the offence of which they are accused, or suspected, of the commission of which they are suspected.
 - v. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
 - vi. The applicants shall not leave India without the previous permission of the Court.
 - vii. In the event, the applicants changes residential address, the applicants shall inform the court concerned about new residential address in writing.
14. In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

Order Date :- 2.11.2023

D. Tamang