

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38574 of 2023

Applicant :- Ram Awadh

Opposite Party :- State of U.P.

Counsel for Applicant :- Bal Mukund Singh, Shri Prakash Mishra

Counsel for Opposite Party :- G.A., Sharad Chandra Srivastava, Shashank Singh

Hon'ble Krishan Pahal, J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicant is taken on record.
2. Heard Sri Bal Mukund Singh, learned counsel for the applicant and Sri Shashank Singh, learned counsel for the informant as well as Sri Pankaj Kumar, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 0736 of 2020, under Sections 147, 148, 504, 506, 323, 325, 308 of I.P.C., Police Station Mauaima, District Prayagraj, during the pendency of trial.
4. As per prosecution story, the applicant along with co-accused persons is stated to have assaulted the nephew of the informant on 09.10.2020 at about 01:00 PM thereby causing grievous injuries to him.
5. Learned counsel for the applicant has stated that the applicant has been falsely implicated in the present case due to ulterior motive. He has nothing to do with the said offence as alleged in the FIR. The FIR is delayed by more than one day and there is no explanation of the said delay caused. Learned counsel has further stated that injuries sustained by the injured persons were found simple in nature although there are 12 injuries in all. The present FIR is a counterblast to the FIR No.41 of 2020 instituted by the brother of the applicant and FIR No.339 of 2020 instituted by the applicant against the informant and his family members. The said FIRs have been instituted as cross-case and even the applicant had to get his bail in the said case. Learned counsel has further stated that as per the FIR version, the role assigned to the applicant is of exhortation and not to assault the injured person, as such, he is entitled for bail.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. The criminal history of two cases assigned to the applicant has been explained in para-11 of the affidavit filed in support of bail application. The applicant is languishing in jail since 16.08.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.
7. Per contra, learned A.G.A. and learned counsel for the informant have has

vehemently opposed the bail application on the ground that the injured person has sustained grievous injuries and that are 12 in numbers. Fractures have been found on various parts of the body and, as such, the applicant is not entitled for bail.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the merits of the case, the Court is of the view that the role of exhortation has been assigned to the applicant and there are previous litigations between the parties, therefore, I find it a fit case for bail. The bail application is **allowed**.

9. Let the applicant- **Ram Awadh** involved in aforementioned case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

- i. The applicant will not tamper with the evidence during the trial.
 - ii. The applicant will not pressurize/ intimidate the prosecution witness.
 - iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
 - iv. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
 - v. The applicant 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.
10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.
11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.
12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 13.10.2023
Siddhant