

**Court No. - 75**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 38634 of 2023

**Applicant :-** Saurabh Tiwari

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Rakesh Pathak

**Counsel for Opposite Party :-** G.A.

**Hon'ble Umesh Chandra Sharma,J.**

1. Heard Sri Rakesh Pathak, learned counsel for the applicant, learned AGA for the State and perused the record.

2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.143 of 2023, under Sections 307, 504, 506 IPC, Police Station Mohana, District Siddharth Nagar, during the pendency of trial.

3. Learned counsel for the applicant contended that the applicant has been falsely implicated in the present case; no offence has been committed by the applicant. There is one day's undue and unexplained delay in lodging the FIR. The truthfulness of the facts of the FIR has been challenged on the basis of the statement of the informant and family members of the victim before the concerned doctor who treated the victim where they narrated that the injury to the victim has occurred as he had fallen on the ground. Learned counsel for the applicant contended that later on family members of the victim and the informant concocted a false story and lodged the FIR against the applicant. If the injury would have been caused by the applicant, this fact would have also been narrated to the concerned doctor. Thus, according to the applicant, it is a false and fictitious case only to harass and falsely implicate the accused who had no previous enmity with the injured to cause such injury and crime. The applicant has criminal history of three cases from which two cases have been explained in paragraph-23 of the affidavit filed in support of the bail application and one criminal case has been explained in paragraph-2 of the supplementary affidavit. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 29.06.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA has vehemently opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions

advanced by the counsel for the applicant from the record.

5. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

6. Let the applicant - **Saurabh Tiwari**, 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 :- 16.11.2023**

Shahroz