

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39847 of 2023

Applicant :- Dipak

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Vijay Shantam

Counsel for Opposite Party :- G.A., Neetu Singh, Vishal Kushwaha

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State-opposite party and Ms. Neetu Singh, learned counsel for the informant.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 206 of 2023, under Sections 147, 148, 452, 323, 352, 354, 506 I.P.C. and 7/8 Prevention of Children from Sexual Offences Act, Police Station Jalesar, District Etah, during the pendency of the trial.

3. Learned counsel for the applicant submits that the incident is alleged to have occurred on 03.06.2023 and the first information report was lodged on 07.06.2023. The delay in the facts of the present case is fatal to the prosecution case. The applicant has been falsely implicated in the instant case owing to earlier dispute between the parties. The applicant is alleged to have caused injury to Anju and acted indecently with the daughter of the informant. It is contended that Anju was not produced before the doctor for medical examination. The injuries sustained by the daughter of the informant cannot be attributed to the applicant. The said injuries are simple in nature. It is contended that there is cross-version of the incident. The applicant had also lodged a first information report against the informant and his family members on 06.06.2023 registered as Case Crime No. 203 of 2023, under Sections 323, 506 I.P.C., Police Station Jalesar, District Etah. In the alleged incident the applicant has also received injuries. The aggressor is still to be ascertained. It is next contended that identically placed co-accused Arjun Singh has been granted bail by this Court in Criminal Misc. Bail Application No. 40036 of 2023 vide order dated 10.10.2023. The applicant claims parity. The applicant is in jail since 17.07.2023 having no criminal history and if he is released on bail, he will not misuse the said liberty.

4. Learned A.G.A. 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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that the injuries sustained by the daughter of the informant are simple in nature. There is a cross-version of the incident. Earlier the applicant had lodged a first information report against the informant. Both the sides have received injuries. At present there is no clarity with regard to the role of the applicant. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for more than three months and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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, therefore, 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- **Dipak**, 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 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; and,

(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 :- 2.11.2023

Lbm/-