

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38959 of 2023

Applicant :- Omveer Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Mahesh Kumar Kuntal, Kartikeya Shukla, Mahesh Prasad Pandey

Counsel for Opposite Party :- G.A., Rajeev Sharma

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Kartikeya Shukla learned counsel for the applicant, Sri Rajeev Sharma, learned counsel for the informant as well as Sri Mithilesh Kumar, learned A.G.A. for the State and perused the record.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant- **Omveer Singh** on bail in Case Crime No. 109 of 2023 under Sections 147, 148, 313, 324, 325, 506 I.P.C., Police Station- Barahan, District- Agra, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. Seven named accused including the applicant and 15-20 unknown accused persons have been alleged to have assaulted with stick and iron rod to the complainant and his family members. However, as per the medical reports of the injured persons namely Kapil, Manoj, Azad and Tannu, the injuries sustained by them, are simple in nature. No specific role has been assigned to the applicant. As per the Ultrasound report of the injured Tannu, no pregnancy was found. It is next contended that in the Modi A Textbook of Medical Jurisprudence and Toxicology, it has been mentioned that 'most current pregnancy tests have sensitivity to approximately 25 mIU/ml., however, in this case, as per the pregnancy test of the the injured Tannu which was conducted after 12 days of the alleged incident i.e. on 15.6.023, the sensitivity was 10.32 mIU/ml at the time of the incident, which suggest that she was not pregnant, therefore, the offence under Section 313 I.P.C. does not make out. The applicant is in jail since 04.08.2023, having no criminal history, in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned counsel for the informant and learned A.G.A. have vehemently opposed the prayer for bail and submitted that in the F.I.R. as well as in the statement of the complainant, specific role of assaulting the injured, Tannu, has been assigned to the present accused. So far as pregnancy of the injured, Tannu is concerned, the I.O. has recorded the statement of Dr. Charu Pachauri, who has stated that on 3.6.2023 the injured Tannu had come at MLPC CHC Aitmadpur and on OPD slip, UPT Test was done and it was positive, thereafter, she was referred for Ultrasound wherein also her pregnancy was found positive, however, as per the report of ultrasound Product of Concepts was not found Beta H.C.G. Test was also done by the doctor which was also resulted in positive and upon query, the doctor replied that as per report of the victim, fetus was ready in her womb at the time of the incident. So far as the level of sensitivity is concerned, a four weeks pregnancy may have 10-708 mIU/ml. Therefore, the accused is not entitled for bail.

5. Having considered the submissions made above, I am of the opinion that this is not fit case for bail.

6. Accordingly, the bail application is **rejected**.

Order Date :- 9.11.2023

S.Verma