

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40879 of 2023

Applicant :- Rimpi

Opposite Party :- State of U.P.

Counsel for Applicant :- Raghubir Singh, Virendra Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Counter affidavit and Rejoinder Affidavit, filed today are taken on record.
2. Heard Sri V.K. Srivastava, learned counsel for the applicant as well as Sri Mithilesh Kumar learned A.G.A. for the State and perused the record.
3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant, **Rimpi**, on bail in Case Crime No. 74 of 2023 under Sections 323, 504, 506, 307, 34 I.P.C., Police Station- Bah, District-Agra, during the pendency of the trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The present F.I.R. has been lodged by the complainant in collusion with the police as no such incident has taken place. There is no independent witness of the alleged incident. Though three persons have been alleged to have assaulted the complainant and his son, however, no specific role has been assigned to any of the accused. It is contended that in this incident, persons from both the sides have sustained injuries and the injuries received by the injured Bhurey and Buntty are on non vital parts and are simple in nature. The applicant has not fired upon the injured, as a matter of fact, the complainant and his son, injured- Banti, came to the house of the applicant and badly assaulted the mother of the applicant by knife and tried to strangle her regarding which an F.I.R. has been lodged against the complainant and his son bearing Case Crime No. 99 of 2023 u/S 147, 323, 307, 427, 504, 506 I.P.C., therefore, it is a cross case and the complainant's side was the aggressor in the incident. In the cases shown as the criminal history of the applicant, the applicant have been acquitted. The applicant is in jail since 11.04.2023, in case he is enlarged on bail, he will not misuse

the said liberty.

5. Learned A.G.A. has vehemently opposed the prayer and contended that the applicant is named in the F.I.R. In the incident, two persons have received grievous injuries. The present accused with intention of kill the injured, Bunty, has fired upon him which hit the injured Bunty in his abdomen which is a vital part and as per the statement of the doctor, due to the gun shot injury the internal and external organs have been badly injured and the intestine has been infected. The weapon used in the crime has also been recovered on the pointing of the accused. The version of the F.I.R., the statements of the witnesses including injured witnesses and the medical evidence corroborate the prosecution version. Though the accused has been acquitted in two cases shown against him, however, it shows the criminal mentality of the accused and the accused, if enlarged on bail, would either temper with the evidence or delay the trial or intimidate the witnesses. Therefore, the accused does not deserve to be enlarged on bail.

6. Having regard to the aforesaid overall facts and circumstances of this case and also keeping in view the arguments advanced on behalf of the parties, nature and manner of commission of offence and evidence regarding the complicity of applicant, no case for bail, at this stage, is made out.

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

Order Date :- 24.11.2023

S.Verma