

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41368 of 2023

Applicant :- Naushad

Opposite Party :- State of U.P.

Counsel for Applicant :- Yogendra Pal Singh

Counsel for Opposite Party :- G.A., Akash Tomar

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by the counsel for the applicant, is taken on record.
2. Heard learned counsel for the applicant, Sri Akash Tomar, learned counsel for the informant and learned AGA for the State-respondent.
3. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 322 of 2022, under Sections 147, 148, 149, 307, 323, 452 IPC, Police Station Bhawanpur, District Meerut, during the pendency of trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. In the first information report, eleven persons including the applicant are nominated. Specific role of causing fire arm injury on the leg of injured Munaf has been assigned to co-accused Shahjad. A vague and general role has been assigned to the applicant. In the alleged incident two persons have received injuries. Even in the statement of two injured, the applicant has not been nominated as the principal offender, who caused the injuries. It is next contended that identically placed co-accused Mahrazuddin @ Babu has been granted bail by this Court in Criminal Misc. Bail Application No. 18559 of 2023 vide order dated 25.08.2023. The applicant claims parity. The criminal history of the applicant has been explained in para 2 of the supplementary affidavit. The applicant is in jail since 01.05.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that a vague and general role has been assigned to the applicant. Identically placed co-accused Mahrazuddin @ Babu has been granted bail. Further,

the applicant has remained confined for more than five months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when 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, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Naushad**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two heavy 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; and,

(iii) shall not pressurize the prosecution witnesses.

8. 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 :- 19.10.2023

Lbm/-