

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39918 of 2023

Applicant :- Johny @ Jonit

Opposite Party :- State of U.P.

Counsel for Applicant :- Syed Faiz Hasnain, G.S. Chauhan

Counsel for Opposite Party :- G.A., Pankaj Bharti

Hon'ble Vivek Varma, J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant, Sri Pankaj Bharti, counsel for the informant and learned AGA for the State-opposite party.
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. 24 of 2023, under Sections 307, 452, 504 and 506 of I.P.C., Police Station- Bhopa, District- Muzaffarnagar, during the pendency of trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, four persons including the applicant are alleged to have fired at Vikash and Sudesh. As per the medical report, both Vikash and Sudesh have sustained a single firearm injury. In the statement of the injured Vikash, specific role of firing, causing injury on his shoulder, has been assigned to the applicant. In the statement of the another injured, Sudesh, she stated that the applicant had caused injury on the shoulder of Vikas. However, she did not name any person who caused injury to her. Counsel for the applicant contends that the nature of injury sustained by Vikash shows that there was no intent to kill. The author of the injury caused to injured Sudesh is not known. Further, the co-accused, Parvesh, having identical role has been granted bail by this Court vide order dated 18.08.2023 in Criminal Misc. Bail Application No. 18569 of 2023. The applicant is in jail since 28.01.2023, having no criminal history and in case, he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA and 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 the nature of injury to the injured Vikash shows that there was no intent to kill. The author of injury caused to Sudesh is not known. There are four co-accused persons. Identically placed co-accused, Parvesh, has been granted bail by this Court. The applicant has no criminal antecedents and has remained confined for more than eight 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Johny @ Jonit**, involved in the aforesaid case crime 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.

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 :- 18.10.2023
Sachin Mishra