

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39979 of 2023

Applicant :- Aditya Indoliya Alias Aadi

Opposite Party :- State of U.P.

Counsel for Applicant :- Mahesh Kumar Kuntal

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and learned A.G.A. for the State-opposite party.
2. 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. 544 of 2023, under Sections 147, 148, 294, 307, 323, 34, 500, 504 & 506 of I.P.C., Police Station- Sikandara, District- Agra, during the pendency of trial.
3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the present case. The F.I.R. was lodged belatedly. As per the CCTV footage, no active role of the applicant was seen. As per the medical report of the injured, no external injury was seen. A vague and general role has been assigned to the applicant. At present, there is no evidence to link the applicant with the offence. It is next contended that co-accused Nikki alias Bagga having identical role has been granted bail by this Court in Criminal Misc. Bail Application No. 43235 of 2023, Nikki @ Bagga v. State of U.P., vide order dated 30.10.2023. The applicant claims parity. The applicant is in jail since 25.07.2023 having no criminal history and if he is enlarged on bail, he will not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and after perusal of the record, this Court prima facie finds that a vague and general role has been assigned to the applicant. The F.I.R. was lodged belatedly. At present, there is no substantive evidence against the applicant. The medical report does not support the prosecution version. Identically placed co-accused Nikki @ Bagga has been granted bail by this Court. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for almost 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- Aditya Indoliya alias Aadi, 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
SKT/-