

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 40018 of 2023

**Applicant :-** Manawwar

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Mohd. Aslam Khan, Mohd. Mateen Khan

**Counsel for Opposite Party :-** G.A., Manu Khare

**Hon'ble Vivek Varma, J.**

1. Heard Sri Anil Kumar Srivastava, Senior Advocate assisted by Mohd. Mateen Khan, learned counsel for the applicant, Sri Dinesh Kumar Soni, Advocate holding brief of Sri Manu Khare, learned counsel for the informant and learned AGA for the State-respondent.

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. 252 of 2023, under Sections 394, 307, 411 IPC, Police Station Kairana, District Shamli, during the pendency of trial.

3. Counsel for the applicant submits 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 assaulted Vinod and Pankaj. As per the medical report of two injured, Pankaj received nine injuries. In the opinion of doctor the said injuries are simple in nature, whereas injured Vinod received three injuries. The injury no.1 was referred for CT Scan. As per the CT Scan head "fracture of frontal bone was seen on the right side". In the statement of two injured, a vague and general role has been assigned to the applicant. It is further contended that the applicant has not been nominated as the offender, who caused injury on the head of Vinod. There is a cross version of the incident. The applicant has also received injuries. The author of the injury is not known. It is next contended that the co-accused Farman has been granted bail by this Court vide order dated 12.10.2023. The applicant claims parity. The criminal history of the applicant has been explained in para 16, 17 and 24 of the affidavit. The applicant is in jail since 21.06.2023 and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA and counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. 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. The applicant has not been nominated as the offender, who caused injury on the head of injured Vinod. There is cross version of the incident. The applicant has also received injury. At present there is no clarity with regard to the role of the applicant. The co-accused Farman has been granted bail by this Court. Further, the applicant has remained confined for more than four 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.

6. Let the applicant Munawwar, 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 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.

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 :- 28.10.2023**  
S.S.