

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41896 of 2023

Applicant :- Nitin @ Ravi

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Mohd. Khalil, Maksood Ahmad, Rajrshi Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Supplementary affidavit, filed by the counsel for the applicant, is taken on record.
2. Learned AGA submits that notice of the instant application has been served upon the opposite party nos. 3 and 4 on 20.9.2023 and 21.9.2023 respectively. The receiving endorsements have been produced by learned AGA, the same are taken on record. However when the case is called out, none appears on behalf of the opposite party no. 3 and 4 nor any counter affidavit has been filed on their behalf.
3. Heard learned Counsel for the applicant, Sri N.K. Sharma, learned A.G.A. for the State and perused the record.
4. 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. 331 of 2023, under Section 377 I.P.C., and 3/4 POCSO Act, Police Station- Tronika City, District- Ghaziabad during pendency of the trial.
5. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case due to other dispute between the parties. The victim is nephew of the applicant. The incident is alleged to have occurred on 2.6.2023. The victim was examined by the doctor on 4.6.2023. As per the medical report the victim has received contusion 0.5 cm x 0.5 cm on lower side of anus. It is contended that the said injury was not caused in the alleged incident. The victim had earlier also lodged an FIR against another person with similar allegations registered as Case Crime No. 773 of 2022, under Sections 323, 342, 308, 377, 506 and 34 IPC and 3/4 POCSO Act, pending before Tees Hazari Court, Delhi. The victim is a major. The applicant did not act inappropriately with the victim. The applicant runs a De Addiction Centre. The applicant does not have any criminal history. The applicant is in

jail since 5.6.2023. In case he is enlarged on bail, he will not misuse the said liberty.

6. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the first information report was lodged belatedly. The medical report does not support the prosecution version. At this stage there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further the applicant has presently remained confined for more than six months and 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 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.

8. Let the applicant, **Nitin @ Ravi** involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant shall appear on each and every date fixed by the trial court.

9. 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 :- 7.12.2023
S.S.