

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41698 of 2023

Applicant :- Rizwan @ Luley

Opposite Party :- State of U.P.

Counsel for Applicant :- Amarjeet Yadav, Vibha Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Supplementary affidavit filed today is taken on record. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 326 of 2023 under Sections 147, 149, 332, 353, 504, 307 I.P.C. and 2/3 Prevention of Damage to Public Property Act, Police Station- Bardah, District- Azamgarh, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. No specific role has been assigned to the applicant. There is no evidence that any police personnel has sustained injury in the alleged incident nor any incriminating article has been recovered from the possession of the applicant. It is next contended that the co-accused Danish @ Vidhayak, having identical role, has been granted bail by this court in Criminal Misc. Bail Application No. 1321 of 2023 vide order dated 17.1.2023. The applicant claims parity. The criminal history of the applicant has been explained in para 3 of the supplementary affidavit. The applicant is in jail since 22.2.2023, in case he is enlarged on bail, he will not misuse the said liberty.

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

5. Having regard to the submissions made above and the fact that the applicant has remained confined for more than eight months, and the co-accused has been enlarged on bail, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either temper 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- **Rizwan @ Luley**, involved in 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 :- 1.11.2023

S.Verma