

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41994 of 2023

Applicant :- Kallu @ Jishan

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and learned AGA for the State.
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. 121 of 2023, under Sections 147, 148, 149, 307, 323, 397, 224, 225, 332, 333, 336, 353 & 186 of I.P.C. and 3/25 of Arms Act, Police Station- Saroorpur, District- Meerut during pendency of the trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. As per the allegations in the first information report, seven named persons including the applicant and four unnamed persons are alleged to have assaulted three constables. According to the medical report two constables received simple injuries. One constable namely Brij Kishor Singh received three injuries. Out of which one injury is a fracture of ulna bone. It is contended that the entire family of the applicant has been implicated in the instant case. A vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injuries to the three injured. The case of the applicant could not travel beyond section 325 IPC. False recovery of 315 bore rifle (muscot) has been shown from the applicant. There is no independent witness to the alleged recovery. It is next contended that the co-accused, Shadab, having identical role, has been granted bail by this Court in Criminal Misc. Bail Application No. 36877 of 2023 vide order dated 20.09.2023. The applicant claims parity. The criminal history of the applicant has been explained in para no. 22 of the bail application. The applicant is in jail since 04.06.2023. 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 facts from the record.
5. Having heard learned counsel for the parties and having perused

the record this Court prima facie finds that a vague and general has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injuries to the three injured. The co-accused, Shadab 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 merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant, **Kallu @ Jishan** 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 temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 17.10.2023
Sachin Mishra