

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 42435 of 2023

Applicant :- Ram Prakash

Opposite Party :- State of U.P.

Counsel for Applicant :- Yogesh Kumar Singh, R.P.S. Chauhan

Counsel for Opposite Party :- G.A., Sanjay Singh

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State-opposite party, and Sri Sanjay Singh, learned counsel for the informant.

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. 261 of 2023, under Sections 147, 148, 149, 323, 504, 506, 307 I.P.C., Police Station Khandauli, District Agra during the pendency of the trial.

3. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. In the first information report 11 persons are nominated. As per the allegations in the first information report, three persons including the applicant are alleged to have fired from a country made pistol. The other two accused Jitendra and Chhinna are alleged to have assaulted the injured by lathi, danda and iron-rod. In the alleged incident three persons have received injuries. Injured Kuldeep has received three injuries. Injury No. 1 was referred for X-ray examination. As per X-ray report, a small cylindrical metallic density foreign body was seen in postero-lateral aspect of chest wall left side. The other two injuries are caused by hard and blunt object. The other two injured also received injuries from hard and blunt object. It is contended that author of injury no. 1 of injured Kuldeep is not known. A vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender who caused injury no. 1 to injured Kuldeep. It is further contended that there is cross-version of the incident. From the side of the applicant, the applicant and four other persons have also received injuries. The aggressor is still to be ascertained. The criminal history of the applicant has been explained in Paragraph-42 of the affidavit. The applicant is in jail since 18.07.2023 and if he is released 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 heard learned 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 applicant has not been nominated as the principal offender who caused injury no. 1 to injured Kuldeep. There is cross-version of the incident. The aggressor is also to be ascertained. There is no clarity with regard to the role of the applicant. Moreover, the applicant has remained confined for more than 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- Ram Prakash, 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 :- 31.10.2023

SKT/-