

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43022 of 2023

Applicant :- Vijay

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and learned AGA for the State-opposite party.
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. 151 of 2023, under Sections 323, 504, 506 and 313 I.P.C., Police Station- Baniyather, District- Sambhal, during the pendency of trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. As per the first information report, four persons are alleged to have assaulted the informant. No specific role has been assigned to the applicant. The applicant has not been nominated as the principal offender who caused the injuries to the informant. It is next contended that there is no opinion of the Doctor that the miscarriage of the unborn child was caused due to the alleged incident dated 07.06.2023. No recovery of any incriminating article has been made from the applicant. Further, the co-accused, Manoj, having identical role, has been granted bail by this Court in Criminal Misc. Bail Application No. 43230 of 2023 vide order dated 18.10.2023. The applicant claims parity. The applicant is in jail since 03.08.2023, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. 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 learned counsel for the parties and having perused the record this Court prima facie finds that the applicant has not been nominated as the principal offender who caused the injuries to the informant. The identically placed co-accused, Manoj has been granted bail by this Court. Further, the applicant has no criminal antecedents and has remained confined for more than two

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 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- **Vijay**, 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 :- 28.10.2023
Sachin Mishra