

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46169 of 2023

Applicant :- Idrish

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

Counsel for Applicant :- Rakesh Kumar Tripathi, Balendra Deo Misra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Ms. Manisha Chaturvedi, Advocate has filed her *vakalatnama* on behalf of the opposite party no. 2/ High Court Legal Services Committee. The same is taken on record.

2. Learned A.G.A. submits that notice of the instant application has been served on the opposite party no. 3/C.W.C. on 12.10.2023 and opposite party no. 4/informant on 10.10.2023. The relevant endorsements have been produced by the learned A.G.A. The same are taken on record. However, when the case is called out, none appears on behalf of the said opposite parties nor any counter affidavit has been filed on their behalf.

3. Heard counsel for the applicant, counsel for the opposite party no. 2 and learned A.G.A. for the State-opposite party.

4. 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. 276 of 2023 under Sections 354 & 506 of I.P.C., Section 8 of POSCO Act and Sections 3(2)(5)a and 3(1)w of SC/ST Act, Police Station- Kotwali Maudsha, District- Hamirpur, during the pendency of the trial.

5. Counsel for the applicant contends that the applicant has been falsely implicated in the present case owing to certain other dispute between the parties. The applicant did not act inappropriately with the victim. It is next contended that there are inconsistencies in the statements of the victim under Sections 161 Cr.P.C. and 164 Cr.P.C. with regard to the place of occurrence. As per the medical report, the victim has not sustained any injury. Further, the allegations under the S.C./S.T. Act are also not made out against the applicant. The applicant is in jail since 16.07.2023, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.

6. Learned A.G.A. and counsel for the opposite party no. 2 have

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 there are inconsistencies in the statements of the victim under Sections 161 Cr.P.C. and 164 Cr.P.C with regard to the place of occurrence. The said inconsistencies discredit the prosecution case. At present, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and has remained confined for more than three 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.

8. Let the applicant- **Idrish**, 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.

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 :- 1.11.2023
Sachin Mishra