

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44155 of 2023

Applicant :- Danish @ Nadeem

Opposite Party :- State of U.P.

Counsel for Applicant :- Mary Puncha (Sheeb Jose), Mohd. Kalim

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant and learned A.G.A. for the State-opposite party.
3. 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. 484 of 2023 under Sections 269, 270, 272, 273, 332, 353, 429, 307, 34 & 120B I.P.C. and Section 3/11 of the Prevention of Cruelty to Animals Act, Police Station- Deoband, District-Saharanpur, during the pendency of the trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the present 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 injury to the injured. It is next contended that the identically placed co-accused, Sahid and Raju @ Israr, have been granted bail by the Court in Criminal Misc. Bail Application Nos. 44665 of 2023 and 44704 of 2023 vide orders dated 31.10.2023. The applicant claims parity. The criminal history of the applicant has been explained in para no. 18 of the bail application and para no. 3 of the supplementary affidavit. The applicant is in jail since 18.09.2023. In case he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused 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 the injury to the injured person. The identically placed co-accused, Sahid and Raju @ Israr has been granted bail by this Court. Further, the applicant

has remained confined for more than one month 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.

7. Let the applicant- **Danish @ Nadeem**, involved in aforesaid case be released on bail on his furnishing a personal bond and two **heavy** 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.

(iv) **shall not leave district without the leave of the trial court; and,**

(v) shall appear on the first Sunday of every month at the Police Station concerned.

8. 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 :- 3.11.2023

Sachin Mishra