

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43748 of 2023

Applicant :- Dheeraj And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajendra Prasad,Ravindra Kumar Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised. Supplementary affidavit filed today by the learned counsel for the applicants is taken on record.
2. Heard Sri Vindhyachal Singh, Advocate holding brief of Sri Ravindra Kumar Dwivedi, learned counsel for the applicants and Sri Yogesh Mishra, learned A.G.A. for the State and perused the record.
3. Applicants seek bail in Case Crime No. 559 of 2023, under Sections 147, 307, 504, 506, 323, 324 of, I.P.C., Police Station Kotwali Nagar, District Etah, during the pendency of trial.
4. As per prosecution story, the applicants along with some unknown persons are stated to have taken juice from the shop of the informant whereby entered into an altercation and after hurling abuses, they are stated to have taken him into a nearby park and assaulted him with knife. Other unknown persons are stated to have assaulted him with lathi danda.
5. Learned counsel for the applicants has stated that the applicants are absolutely innocent and have been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize them. No date and time of the offence has been mentioned in the FIR. The FIR has been instituted on 21.07.2023 at about 05:29 PM. Learned counsel has further stated that medical examination report of the injured person was prepared on 20.07.2023 at about 11:30 PM and the injured was brought to hospital by PRD Dinesh Kumar, the same night, as such, the FIR is delayed by one day. Learned counsel has further stated that it was the police who had got the medical examination of the injured person prepared but by then there was no FIR in existence as it was registered on the next day. The injuries sustained by the injured person are simple in nature. Criminal history of the applicant has been explained by means of supplementary affidavit. The applicants are languishing in jail since 21.07.2023. In case, the applicants are released on bail, they will not misuse the liberty of bail.
6. Per contra, learned A.G.A. has vehemently opposed the bail application but unable to dispute the submissions raised by the learned counsel for the applicants.
7. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused applicants, severity of punishment, at

this stage, without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for bail. The bail application is **allowed**.

8. Let the applicants- **Dheeraj** and **Vikas Rathaur** involved in aforementioned case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

- i. The applicants will not tamper with the evidence during the trial.
 - ii. The applicants will not pressurize/ intimidate the prosecution witness.
 - iii. The applicants will appear before the trial court on the date fixed, unless personal presence is exempted.
 - iv. The applicants shall not indulge in any criminal activity or commission of any crime after being released on bail.
 - v. The applicants shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.
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.
10. Identity, status and residence proof of the applicants and sureties be verified by the court concerned before the bonds are accepted.
11. It is made clear that observations made in granting bail to the applicants shall not in any way affect the learned trial Judge in forming his independent opinion on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 26.10.2023

Siddhant