

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44129 of 2023

Applicant :- Sanoj Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Maurya

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by learned counsel for the applicant is taken on record.
2. Heard learned counsel for the applicant and Sri V.P. Tripathi, 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. 298 of 2023, under Sections 147, 148, 307, 34, 326 I.P.C., Police Station Kotwali, District Ballia during the pendency of the trial.
4. Learned counsel for the applicant submits that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, 13 persons including the applicant are alleged to have assaulted Shivam. According to the medical report of Shivam, he sustained three injuries. Two injuries were found simple in nature and Injury No. 3 caused on his thigh was referred for X-ray examination. As per the supplementary medical report, Injury No. 3 was found grievous in nature. The injured after about 26 days of the incident stated that the applicant had caused Injury No. 3. It is contended that the said statement is an afterthought and discredits the prosecution case. It is next contended that even the eye witnesses of the alleged incident have assigned vague and general role to the applicant. The criminal history of the applicant has been explained in Paragraph-2 of the supplementary affidavit. The applicant is in jail since 26.07.2023 and if he is released 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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that in the first information report a vague and general role has been assigned to the applicant. After about 26 days of the incident the applicant was nominated as the offender who caused Injury No. 3 on the injured. Even the alleged eye witnesses of the incident have assigned vague and general role. At this stage there is no substantive evidence against the applicant that he caused Injury No. 3 on the non-vital part of the body. Further, nature of the injuries shows that the applicant had no intention to murder the injured. Moreover, the applicant has remained confined for almost four 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.

7. Let the applicant- Sanoj Yadav, 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.

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 :- 29.11.2023

SKT/-