

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43962 of 2023

Applicant :- Sharif

Opposite Party :- State of U.P.

Counsel for Applicant :- Sushil Kumar Chaturvedi, Kuldeep Singh Chahar, Sangeeta Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant and learned AGA for the State-respondent.
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.67 of 2020, under Sections 147, 323, 324, 452, 325, 308, 506 IPC, Police Station Kheragarh, District Agra, during the pendency of trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. Six co-accused including the applicant are alleged to have assaulted the injured Saimuddin. As per the medical report of the injured, he received two injuries. The injury no.1 was referred for CT Scan. As per the report of the Radiologist, linear undisplaced fracture was seen in the left frontal bone. It is contended that a vague and general role has been assigned to the applicant. Even in the statement of the injured, the applicant has not been nominated as the principal offender who caused injury no.1 to the injured Saimuddin. It is next contended that there is a cross version of the incident. Three persons from the side of the applicant also received injuries. The aggressor is still ascertained. The applicant is in jail since 15.09.2023 having no criminal history and in case he is enlarged on bail, not misuse the said liberty.
4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that the vague and general role has been assigned to the applicant. Even in the statement of the

injured, the applicant has not been nominated as the principal offender who caused injury no.1 to the injured. There is a cross version of the incident. Both sides have received injuries. At present there is no clarity with regard to the role of the applicant. Further, the applicant has remained confined for more than one month 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, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant Sharif, 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 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 :- 30.10.2023

Priya