

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44143 of 2023

Applicant :- Shamshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Rai, Amit Daga

Counsel for Opposite Party :- G.A., Om Prakash Yadav, Sunil Kumar Yadav

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant, Sri Sunil Kumar Yadav, learned counsel for the informant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.

2. 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. 162 of 2023, under Sections 147, 307, 323, 325, 506 I.P.C., Police Station Civil Lines, District Muzaffar Nagar during the pendency of the trial.

3. Learned counsel for the applicant submits that the applicants has been falsely implicated in the instant case. Six named persons and two unknown persons are alleged to have assaulted injured Dilshad and he sustained 10 injuries. Injury No. 9 is a fracture of right side nasal bone. In the opinion of the Doctor, the said injury was grievous in nature. Rest of the injures were found simple in nature. A vague and general role has been assigned to the applicant. The applicant has not been nominated as principal offender, who caused grievous injury to the injured. It is next contended that the applicant had no concern with the incidents dated 23.08.2020 and 08.05.2023. It is further contended that identically placed co-accused Firoz @ Bichhu and Nadeem @ Kala have been granted bail by this Court in Criminal Misc. Bail Application No. 27871 of 2023 vide order dated 04.07.2023. The applicant claims parity. The applicant is in jail since 19.09.2023 having no criminal history and if he is released on bail, he will not misuse the said liberty.

4. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that the a vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender who caused the grievous injury to the injured. Identically placed co-accused Firoz @ Bichhu and Nadeem @ Kala have been granted bail by this Court. The applicant has no criminal antecedents. Further, the applicant

has remained confined for more than two 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.

5. Let the applicant- **Shamshad**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

6. 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 :- 16.11.2023

Lbm/-