

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44963 of 2023

Applicant :- Hridya Narayan Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Ram Yash Pandey, Advocate holding brief of Sri Rajendra Kumar, learned counsel for the applicant, Sri Roshan Kumar Singh, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.151 of 2023, under Sections 147, 323, 504, 506, 308 and 304 I.P.C., Police Station Dildarnagar, District Ghazipur, during the pendency of trial.
4. As per prosecution story, the applicant alongwith five other named accused persons are stated to have assaulted the informant and his family members on 13.9.2023 at about 7:30 p.m., thereby causing injuries four persons in all, namely, Rajendra Yadav, Rudal Yadav, Priyanka Yadav and Devanti Devi.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. The FIR is delayed by about 14 hours and there is no explanation of the said delay caused. Learned counsel has further stated that out of the four injured persons, one Rajendra Yadav, had expired as such the case was transformed under Section 304 I.P.C. There is cross version to the present case as NCR No.99 of 2023 was instituted on behalf of the applicant against the informant and other family members, whereby four persons from the side of the applicant had also sustained injuries, namely, Prabhawati Devi, Ram Ekbal Yadav, Sarvesh Yadav and Maya Devi.
6. Learned counsel for the applicant has further stated that the said NCR was instituted on 14.9.2023 at about 12:42 p.m. the same day of lodging of the FIR. At this point of time, it cannot

be ascertained as to which party was the aggressor, as such the applicant is entitled for bail. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There is no criminal history of the applicant. The applicant is languishing in jail since 16.09.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. has vehemently opposed the bail application but has not disputed the said factum of criminal history and the cross case.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

9. Let the applicant- **Hridya Narayan Yadav**, who is involved in aforementioned case crime 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 following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in Court. In case of default of this condition, it shall be open for the Trial Court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the Trial Court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the Trial Court may proceed against him under Section 229-A IPC.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C., may be issued and if applicant fails to appear before the Court on the date fixed in such proclamation, then, the Trial Court shall initiate proceedings against him, in accordance with law, under Section 174-A IPC.

(iv) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is made clear that observations made in granting bail to

the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 26.10.2023

Ravi Kant

(Krishan Pahal, J.)