

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45180 of 2023

Applicant :- Devanand Kumar And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukteshwar Upadhyay

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicants and learned AGA for the State.
2. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicants on bail in Case Crime No. 34 of 2022, under Sections 147, 148, 323, 504, 506, 308 IPC, Police Station Birno, District Ghazipur, during the pendency of the trial.
3. Counsel for the applicants contends that the applicants have been falsely implicated in the instant case. As per the allegations in the first information report, ten accused persons including the applicants are alleged to have assaulted eight persons. Except the injury sustained by the injured Aviraj on his head, the other injuries sustained by other injured are simple in nature. A vague and general role has been assigned to the applicants. The applicants have not been nominated as the principal offenders, who caused the head injury to the injured Aviraj. Even in the statement of injured Aviraj, the applicants have not been nominated as the principal offenders. The applicants are in jail since 02.09.2023 having no criminal history and in case they are released on bail, they will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.
5. 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 applicants. Except the injury sustained by the injured Aviraj on his head, the other injuries are simple in nature. The author of the said injury is not known. The applicant has no criminal antecedents. Further, the applicants have remained confined for almost 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

applicants, 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 applicants are entitled to be enlarged on bail.

6. Let the applicants- **Devanand Kumar, Subba Ram and Ramsurat Ram** involved in the aforesaid case be released on bail on their 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 applicants shall not temper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness; and,
- iii. the applicants shall appear on each and every date fixed by the trial court.

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 :- 27.10.2023

Lbm/-