Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45248 of 2023

Applicant :- Kaif
Opposite Party :- State of U.P.
Counsel for Applicant :- Bipin Kumar,Mohd. Naushad Siddiqui
Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant and learned AGA for the State.

2. The instant bail application, under Section 439 CrPC, has been filed with a prayer to enlarge the applicant on bail in Case Crime No.452 of 2023, under Sections 147, 148, 149, 323, 307 IPC, Police Station Lisadi Gate, District Meerut, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, eight persons including the applicant are alleged to have caused fire arm injury to Sunney @ Suhail. A vague and general role has been assigned to the applicant in the FIR and in the statement of the injured. As per the medical report, the injured sustained a single fire arm injury. The applicant has not been nominated as the principal offender, who caused the said injury. It is also contended that the co-accused, Jiyaul has already been enlarged on bail by a co-ordinate Bench of this Court vide order dated 11.10.2023 passed in Criminal Misc. Bail Application No.43129 of 2023, therefore, the applicant is also entitled to be enlarged on bail as his case is on the better footing to that of the aforesaid co-accused. The applicant is in jail since 26.07.2023 having no criminal history and in case he is released on bail, he will not misuse the said liberty.

4. Learned AGA 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 a vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender who caused

the fire arm injury. The applicant has no criminal antecedents. Further, the applicant has remained confined for more than three 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, this Court is of opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant - **Kaif**, 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.

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 :- 22.11.2023
Shahroz

Digitally signed by :-
SHAHROJ ALAM
High Court of Judicature at Allahabad