

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45273 of 2023

Applicant :- Himanshu

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Kumar, Manoj Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant, 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. 95 of 2023, under Sections 307, 323, 120-B I.P.C., P.S.-Titron, District- Saharnapur, during pendency of the trial.
3. Learned counsel for the applicant contends that the applicant was not named in F.I.R. and has been falsely implicated in the instant case. As per C.C.T.V. footage, the applicant along with other co-accused were seen on two motorcycles. At this stage, there is no cogent evidence that the applicant had fired on the right leg of the injured. The injured has also not identified the applicant as the person who caused injury on his right leg. Criminal history of the applicant has been explained in paragraph No. 30 of the affidavit. The applicant is in jail since 13.08.2023. In case he is enlarged on bail, he 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 applicant was not named in F.I.R. The injured has not identified the applicant as the person, who caused injury on his right leg. At present there is no substantive evidence against the applicant. Further the applicant has remained confined for more than two months and 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 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, **Himanshu** 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 :- 27.10.2023

Nitika Sri.