

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 45324 of 2023

**Applicant :-** Mahavir And 2 Others

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Kuldeep Singh Chahar, Kapil Kumar

**Counsel for Opposite Party :-** G.A., Bhanu Prakash Verma

**Hon'ble Vivek Varma, J.**

1. Heard Sri Kuldeep Singh Chahar, learned counsel for the applicants, Sri Bhanu Prakash Verma, learned counsel for the informant and Sri Neeraj Kumar Sharma, 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 applicants on bail in Case Crime No. 401 of 2018, under Sections 325, 316 IPC, Police Station Kagaraul, District Agra, during the pendency of trial.

3. Counsel for the applicants contends that earlier the applicants were granted bail by the trial court on 28.07.2022. During the course of trial Sections 325 IPC and 316 of IPC were added. In the statement of the injured during trial recorded on 20.04.2023 no specific role have been assigned to them. The criminal history of the applicants have been explained in para-4 of the supplementary affidavit. The applicants are in jail since 03.05.2023 and in case they are enlarged on bail, they will not misuse the said liberty.

4. Learned AGA has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard counsel for the parties and having perused the record, this Court prima facie finds that during the course of trial the statement of the injured was recorded on 20.04.2023 and in the said statement no specific role have been assigned to the applicants. Further, the applicants have remained confined for more than six 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 the merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

6. Let applicants, ***Mahabir, Omvir and Sauprasad @ Shiv Prasad @ Allu***, involved in the aforesaid case be released on bail on their furnishing personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence; and,
- (iii) shall not pressurize the prosecution witnesses.

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 :- 16.11.2023**

Prajapati