

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45439 of 2023

Applicant :- Nageshwar @ Shakti

Opposite Party :- State of U.P.

Counsel for Applicant :- Naveen Kumar Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.
2. From the perusal of the F.I.R., it transpires that the incident took place on 01.03.2023 at around 4:30 P.M. while F.I.R. was lodged after a delay of 2 days i.e. on 03.03.2023 without giving no explanation to the same. Learned counsel for the applicant submits that there is material contradiction in the statement recorded under Section 161 Cr.P.C. and the contents of the F.I.R. wherein it is mentioned that specific role has been assigned to one Anuj Modanwal and not to the applicant. Learned counsel for the applicant further submits that applicant is innocent and he has been falsely implicated in this case. The applicant is having no criminal antecedent. The applicant is in jail since 22.08.2023. It has also been submitted that there is no possibility of the applicant's fleeing away from the judicial process or tampering with the witnesses. Learned counsel submits that in case the applicant released on bail, he will not misuse the liberty of bail and will cooperate in trial
3. Learned AGA has opposed the bail application.
4. Considering the fact that there is delay of two days in lodging the F.I.R. without giving any explanation as well as there is material contradiction in the statement recorded under Section 161 Cr.P.C. and contents of the F.I.R., the applicant is entitled to be enlarged on bail on the ground of parity. In view thereof, the application is allowed.
5. Let the applicant **Nageshwar @ Shakti** be released on bail in FIR No.99 of 2023, under Section 307, 323, 504 IPC, P.S. Ahirauli Bajar, District Kushinagar, on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:
 - (a) The applicant shall execute a bond to undertake to attend the hearings;
 - (b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
 - (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Order Date :- 3.11.2023

Sachin