

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45304 of 2023

Applicant :- Lalit

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Shri Ram Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1.Sri Neeraj Kumar Sharma, learned A.G.A. submits that notice of the instant application has been served on the opposite party no. 3/C.W.C. and opposite party no. 4/informant on 27.10.2023. The relevant endorsements have been produced by the learned A.G.A. The same are taken on record. However, when the case is called out, none appears on behalf of the said opposite parties nor any counter affidavit has been filed on their behalf.

2. Heard counsel for the applicant and learned A.G.A. for the State-opposite party.

3. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 666 of 2023 under Sections 147, 148, 452, 436, 307, 323, 354, 504 and 506 and Sections 7/8 of the Protection of Children from Sexual Offences Act, 2012, Police Station- Firozabad North, District- Firozabad, during the pendency of the trial.

4. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. As per the allegations in the first information report, four persons including the applicant and 20-25 unknown persons are alleged to have assaulted three persons, and the applicant is alleged to have acted indecently with the sister of the informant. The injuries sustained by the three injured were found simple in nature. It is contended that the applicant did not act inappropriately with the sister of the informant. Earlier, the daughter of the co-accused, Nihal Singh had lodged a first information report against the informant and his family members registered as Case Crime No. 541 of 2023 under Sections 147, 452 and 323 of I.P.C., Police Station- Bihari Nagar, District- Firozabad. In the said case, after investigation, charge-sheet was filed against the informant under Sections 147, 452, 323 and 325 of I.P.C. In the counter blast to the said proceedings, the instant prosecution has been instituted against the applicant. It is next contended that at this stage, there is no cogent evidence to

link the applicant with the offence. Prior to the instant case the applicant does not have any criminal history, however after his arrest he has been implicated in Case Crime No. 341 of 2023 under Sections 323 & 504 I.P.C. and Section 3/25 of Arms Act. In the said case, the applicant has been enlarged on bail. The applicant is in jail since 21.08.2023. In case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having heard counsel for the parties and having perused the record this Court prima facie finds that injuries sustained by the three injured persons are simple in nature. A prior enmity exists between the parties. At present, there is no substantive evidence against the applicant. Further, the applicant has remained confined for almost 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, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Lalit**, involved in aforesaid case be released on bail on his furnishing a 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;
- (iii) shall not pressurize the prosecution witnesses.

8. 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 :- 20.11.2023
Sachin Mishra