

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45881 of 2023

Applicant :- Islam And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajiv Kumar Pandey, Brij Raj Singh

Counsel for Opposite Party :- G.A., Pramod Kumar Singh, Somit Shukla

Hon'ble Vivek Varma, J.

1. Supplementary affidavit, filed by the counsel for the applicants, is taken on record.

2. Heard learned counsel for the applicants, Sri Prateek Tyagi, learned A.G.A. for the State and Sri Somit Shukla, counsel for the informant. Perused the records.

3. 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. 0133 of 2023, under Sections 147, 458, 323, 324, 325, 504, 506 I.P.C., Police Station- Barla, District- Aligarh during pendency of the trial.

4. Counsel for the applicants submits that the applicants have been falsely implicated in the instant case. In the first information report seven co-accused persons including the applicants are nominated. As per the allegations in the first information report co-accused Asif is alleged to have assaulted the brother of the informant Sufiyan on his head, whereas the other co-accused have been assigned general role. In the alleged incident two persons namely Sufiyan and Anees Khan have received injury. Sufiyan received two injuries, one on his head and other injury on his left forearm. As per NCCT head no bony injury was found on the head of Sufiyan. The other injured received fracture on his left forearm and right forearm. Even in the statement of the two injured the applicants have not been nominated as the principal offenders, who caused the said injuries. The applicant nos.1 and 2 have no criminal history. The criminal history of the applicant no.3 has been explained in para 10 of the supplementary affidavit. The applicants are in jail since 18.9.2023. In case they are enlarged on bail, they will not misuse the said liberty.

4. Learned A.G.A. and counsel for the informant have 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 seven persons are nominated in the first information report. Vague and general role has been assigned to the applicants. The applicants have not been nominated as the principal offenders, who caused injuries to the two injured. Further the applicants have presently 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 applicants, 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 applicants are entitled to be enlarged on bail.

6. Let the applicants, **Islam, Iklas @ Munna** and **Mujiv** involved in the aforesaid case be released on bail on their 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 applicants shall not tamper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness;
- iii. the applicants 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 :- 30.11.2023
S.S.