

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46114 of 2023

Applicant :- Akash And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Achyuta Nand Pandey, Ram Kumar Malviya

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Supplementary affidavit filed on behalf of the applicants is taken on record.
2. Heard Sri Raghvendra Yadav, Advocate, holding brief of Sri Achyuta Nand Pandey, learned counsel for applicants and learned A.G.A. for State.
3. The instant bail application has been filed with a prayer to enlarge the applicants on bail in Case Crime No.595 of 2023, under Sections 147, 323, 504, 367 IPC, Police Station Atrauli, District Aligarh during the pendency of trial.
4. The brief facts of the case are that the first informant report was lodged by the complainant Mukesh on 01.09.2023 at Police Station- Atrauli, District Aligarh against the applicant and five others alleged therein that on 31.08.2023 at 12'O clock in the noon his son namely Chandrapal was sitting at the door the accused persons Akash, Vikas, Girish, Jaipal, Sachin and Babloo came up suddenly and took away his son at the furnace of Ram Dayal and tied him with the Neem and assaulted him by belt by which he received several injuries and chest and back, villager Dalveer and Horam Singh reached there and saved him.
5. Learned counsel for the applicants has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. It is further contended that there is no motive behind the incident. The injuries are simple in nature and caused by hard and blunt object. He further contends that applicants were not armed with any deadly weapon. He further contends that victim of the case is a characterless youth and he used to entice the girls of the residents and in this regard the villagers have made complain against him, but no action was taken by the authorities

concerned. No case is made out under Section 367 of I.P.C., as the victim was not kidnapped or abducted and was not putting any danger of being subjected to grievous hurt and salivary are to the unnatural loss. The witnesses Dalveer and Horam are cousin brothers of the complainant, they did not saw the alleged incident, neither they were present at the spot nor the victim was saved by them. There is criminal history of one case against applicant no.1 which has been explained in paragraph-2 of the supplementary affidavit in which he has been enlarged on bail. Rest of the applicants have no criminal history to their credit. There is no likelihood of their abscondence or tampering with the evidence. The applicants are in jail since 04.09.2023 and in case they are enlarged on bail, they will not misuse the said liberty.

6. Learned AGA and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions advanced by the counsel for the applicants.

7. Having regard to the facts, circumstances and the submissions made but without commenting on merits of the case, this Court is of opinion that the applicants are entitled to be enlarged on bail. Accordingly, the bail application is allowed.

8. Let the applicants **-Akash, Babloo @ Satyaveer and Jaipal** involved in the aforesaid case be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that they:

(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.

9. 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 :- 8.11.2023

Imtiyaz