

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45927 of 2023

Applicant :- Brijbhushan Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Vijay Prakash Chaturvedi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by the counsel for the applicant, is taken on record.
2. Heard learned counsel for the applicant and Sri Anupam, Anand, learned Brief Holder for the State-respondent.
3. The instant bail application under Section 439 Cr.P.C. has been filed with a prayer to enlarge the applicant on bail in Case Crime No. 93 of 2023, under Sections 147, 149, 307, 323, 504, 506 IPC, Police Station Itwa, District Siddharth Nagar, during the pendency of trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, two named accused including the applicant and four unknown person are alleged to have assaulted the injured Anubhav Srivastava. As per the medical report, the injured sustained six injuries. The injuries no. 2 and 3 were referred for X-ray examination, whereas the other injuries were found simple in nature. As per the X-ray report, no bony fracture was seen. A vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injuries to the injured Anubhav Srivastava. The criminal history of the applicant has been explained in para 2 of the supplementary affidavit. The applicant is in jail since 14.07.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
5. Learned AGA 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 a vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injuries to the injured Anubhav Srivastava. Further, the applicant has remained confined for almost four 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant **Brijbhushan Pandey**, involved in the 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; and,

(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 :- 9.11.2023

Lbm/-