

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47938 of 2023

Applicant :- Prabal Pratap @ Sonu Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A., Shyam Babu Vaish, Sunil Kumar

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant, Sri Anupam Anand, learned Brief Holder for the State-opposite party, as well as Sri Sunil Kumar, learned Advocate, assisted by Sri Shyam Babu Vaish, Advocate, appearing for the informant.

2. 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. 36 of 2023, under Sections 323, 307, 341, 504, 506 I.P.C., Police Station Bela, District Auraiya during the pendency of the trial.

3. Learned 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 persons including the applicant and two unknown persons are alleged to have assaulted the injured. No specific role has been assigned to the applicant. Even in the statement of the injured, the applicant has not been nominated as the principal offender who caused injuries to the injured. It is next contended that co-accused Jeetu and Vikas have been granted bail by this Court in Criminal Misc. Bail Application Nos. 21479 of 2023, Jeetu v. State of U.P., and 23294 of 2023, Vikas v. State of U.P., vide orders dated 12.05.2023 and 26.05.2023 respectively and co-accused Shani @ Shiva has been granted bail by the trial Court vide order dated 30.05.2023 passed in Bail Application No. 965 of 2023, Shani @ Shiva v. State of U.P.. The applicant claims parity. The criminal history of the applicant has been explained in Paragraphs-16 and 17 of the affidavit. The applicant is in jail since 20.06.2023 and if he is released on bail, he will not misuse the said liberty.

4. Learned Brief Holder and learned counsel for the informant

have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having heard learned counsel for the parties and after perusal of the record, this Court prima facie finds that no specific role has been assigned to the applicant and even in the statement of the injured the applicant has not been nominated as the principal offender who caused injuries to the injured. Identically placed co-accused Shani @ Shiva, Jeetu and Vikas have been granted bail. Moreover, the applicant has remained confined for almost five months and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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, therefore, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- Prabal Pratap @ Sonu Kumar, 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 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.

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 :- 20.11.2023

SKT/-