

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46654 of 2023

Applicant :- Sashi Kant Tiwari

Opposite Party :- State of U.P.

Counsel for Applicant :- Prem Shanker Mishra, Chandra Bhushan Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard learned Counsel for the applicant, learned A.G.A. for the State and perused the record.
2. 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. 50 of 2023, under Sections 323, 325, 504, 506, 308 I.P.C., Police Station- Manda, District- Prayagraj during pendency of the trial.
3. 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 four persons including the applicant are alleged to have assaulted three persons. The medical report of Sanjay Kumar Mishra is not available in the case diary, whereas the informant Ram Asrey and Rajesh Kumar Mishra have received injuries. A vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused injury no.1 to the injured Ram Asrey. There is cross version of the incident. Both sides have received injuries. The aggressor is still to be ascertained. It is next contended that the identically placed co-accused Indrakant Triwari has been granted bail by this court vide order dated 7.11.2023 passed in Criminal Misc. Bail Application No. 45406 of 2023. The applicant does not have any criminal history. The applicant is in jail since 18.9.2023. In case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has 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 a vague and general role has been assigned to the applicant. The applicant has not been nominated as a principal offender who caused injury no.1 to the injured Ram Asrey. There is cross version of the incident. Both sides have received injuries. The aggressor is still to be

ascertained. Identically placed co-accused Indrakant Triwari has been granted bail by this court. Further the applicant has 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 applicant, 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 applicant is entitled to be enlarged on bail.

6. Let the applicant, **Shashi Kant Tiwari** involved in the aforesaid case be released on bail on his 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 applicant shall not tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- iii. the applicant 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 :- 22.11.2023
S.S.