

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49411 of 2023

Applicant :- Dablu And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Prakash Dwivedi, Pranshu Dwivedi

Counsel for Opposite Party :- G.A., Rahul Kumar Sharma

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 applicants, Sri Devesh Kumar Sharm, Advocate holding brief of Sri Rahul Kumar Sharma, learned counsel for the informant 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 applicants on bail in Case Crime No. 130 of 2023, under Sections 147, 148, 149, 323, 452, 504, 506, 325, 308 IPC, Police Station Sadabad Kotwali, District Hathras, during the pendency of trial.
4. Counsel for the applicants submits that the applicants have been falsely implicated in the instant case. As per the allegations in the first information report, eight persons including the applicants are alleged to have caused injury to five persons. A vague and general role has been assigned to the applicants. The applicants have not been nominated as the principal offenders, who caused the injury no.1 to the injured Vishnu and injury no.1 caused to the injured Dainy. Even, in the statements of both the injured, no specific role has been assigned to the applicants. It is next contended that identically placed co-accused Tej Singh and Gajendra have been granted bail by this Court in Criminal Misc. Bail Application No. 41652 of 2023 vide order dated 31.10.2023. The applicants claim parity. The applicants are in jail since 08.08.2023 having no criminal history and in case they are enlarged on bail, they will not misuse the said liberty.
5. Learned AGA and learned counsel for the informant have 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 applicants. The applicants have

not been nominated as the principal offenders, who caused the injury no.1 to both the injured Vishnu and Dainy. The applicants have no criminal antecedents. Further, the applicants have remained confined for more than three 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 applicants, 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 applicants are entitled to be enlarged on bail.

7. Let the applicants **Dablu and Akash** 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; 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 :- 21.11.2023

Lbm/-