

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46634 of 2023

Applicant :- Rajesh Bhardwaj

Opposite Party :- State of U.P.

Counsel for Applicant :- Lalji Yadav, Yashpal Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.
2. The accused-applicant seeks bail in Case Crime No.643 of 2022 under sections 323, 504, 506, 325, 326 IPC, P.S. Gulriha, District Gorakhpur.
3. The contention of the counsel for the applicant is that initially the FIR was lodged against the applicant of causing substantial injuries.
4. The counsel for the applicant argues that on the basis of the allegations levelled, the applicant was arrested and he is in custody since 01.03.2023. He argues that in terms of the mandate of section 437(6), the applicant had moved an application for being enlarged on bail, however, the application was rejected. The counsel for the applicant draws my attention to the order dated 25.09.2023 wherein the arguments raised by the applicant before the Trial Court was considered. The Magistrate while rejecting the application had observed that the offence alleged against the applicant can lead to life imprisonment and thus, the application under section 437 (6) was liable to be rejected.
5. It is argued by the counsel for the applicant that in terms of the mandate of section 437(6), the magistrate cannot try the offence which are punishable with life imprisonment and as the case is not committed for sessions trial, it was incumbent upon the Magistrate to have enlarged the applicant on bail.
6. Considering the fact that the applicant is in custody since 01.03.2023 and the case has not been committed for sessions trial and the applicant has no criminal history, he is entitled to be enlarged on bail. Thus the bail application is allowed.
7. Let the applicant ***Rajesh Bhardwaj*** be released on bail in aforesaid

first information report number subject to his furnishing a personal bond and two reliable sureties of Rs.25000/- (Twenty Five Thousand) each of the like amount to the satisfaction of the court concerned with the following conditions:

- (a) The applicant shall execute a bond to undertake to attend the hearings;
- (b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
- (c) The applicant shall not directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or to any police officer or tamper with the evidence.

Order Date :- 9.11.2023

VNP/-