

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46575 of 2023

Applicant :- Rizwan

Opposite Party :- State of U.P.

Counsel for Applicant :- Anjali Singh Tomer

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri Prateek Tyagi, 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. 278 of 2023, under Sections 386, 324 I.P.C., Police Station-Kairana, District- Shamli 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, the applicant including two unknown persons are alleged to have assaulted the informant. As per the supplementary report dated 27.6.2023 and the medical report dated 23.5.2023 two injuries sustained by the injured/ informant were found simple in nature. A vague and general role has been assigned to the applicant. The criminal history of the applicant has been explained in para 3 of the supplementary affidavit. The applicant is in jail since 9.6.2023. 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 allegation has been made against the applicant. At this stage, there is no substantive evidence against the applicant. Further the applicant has presently remained confined for more than five 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, **Rizwan** 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.