

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47607 of 2023

Applicant :- Musheb

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Akbar Shah Alam Khan

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri V.P. Tripathi, 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. 466 of 2023, under Sections 394, 307 I.P.C., and 3/25/27 Arms Act, Police Station- Kotwali Nagar, District- Muzaffarnagar 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 three persons including the applicant came on a motorcycle and tried to rob the informant and his friend. When the informant protested, the three persons fired. In the alleged incident, the informant received an injury on his left thigh. It is contended that a vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused injury on the non-vital part of the informant. The criminal history of the applicant has been explained in para 20 of the bail application. The applicant is in jail since 11.8.2023. 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 principal offender who caused injury on the non-vital part of the informant. Further the applicant has presently remained confined for more than three 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, **Musheb** 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 :- 20.11.2023
S.S.