

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47069 of 2023

Applicant :- Lavkush

Opposite Party :- State of U.P.

Counsel for Applicant :- Atul Kumar Shahi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sr V.P. Tripathi, learned A.G.A. for the State-opposite party.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant on bail in Case Crime No. 494 of 2023, under Sections 323, 325, 307, 341, 504 I.P.C., Police Station Ramgarh, District Firozabad during the pendency of the trial.

3. Learned counsel for the applicant submits that the applicant was not named in the first information report. Only on the basis of information furnished by an informer the applicant has been falsely implicated in the instant case. Three persons are alleged to have assaulted two injured. No test identification parade was got conducted by the police authorities. A vague and general role has been assigned to the applicant. At present there is no cogent evidence to link the applicant with the offence. The injuries sustained by Aditya Kumar were found simple in nature, whereas other injured Vipin Mishra received nasal bone fracture. The author of the injury caused on the nasal bone of Vipin Mishra is not known. It is next contended that identically placed co-accused Sumit Kumar has been granted bail by this Court in Criminal Misc. Bail Application No. 47093 of 2023, Sumit Kumar v. State of U.P., vide order dated 17.11.2023. The applicant claims parity. The applicant is in jail since 06.09.2023 having no criminal history and if he is released 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 learned counsel for the parties and after perusal of the record, this Court prima facie finds that the applicant was

not named in the first information report. No test identification parade was got conducted by the police authorities. At present there is no cogent evidence to link the applicant with the offence. The injuries sustained by Aditya Kumar were found simple in nature, whereas the author of the injury caused on the nasal bone of Vipin Mishra is not known. Identically placed co-accused Sumit Kumar has been granted bail by this Court. The applicant has no criminal antecedents. Moreover, the applicant has remained confined for more than two months and after submission of the charge-sheet there is no hope of early conclusion of trial, and 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 delay the trial or intimidate the witness, therefore, 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- Lavkush, involved in the aforesaid case, be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned subject to the conditions that he:

- (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.

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 :- 17.11.2023

SKT/-