

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47948 of 2023

Applicant :- Narad

Opposite Party :- State Of U.P. And 3 Others

Counsel for Applicant :- Hari Nath Chaubey

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Learned AGA submits that notice of this bail application has been served upon the opposite party nos. 2 and 4 on 20.11.2023. The receiving endorsements have been produced by learned AGA, the same are taken on record. However when the case is called out, none appears on behalf of the opposite party no. 2 and 4 nor any counter affidavit has been filed on their behalf.

2. Heard learned counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State and perused the record.

3. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Session Case No. 1002 of 2023 in Case Crime No. 01 of 2023, under Sections 323, 504, 506, 354-B I.P.C., and Section 9/10 POCSO Act and Section 3(2)5A, SC/ST Act, Police Station- Devrahat, District- Kanpur Dehat during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case owing to certain other dispute between the parties. The incident is alleged to have occurred on 14.1.2023 and the first information report was lodged on 15.1.2023. The victim is a major girl. As per medical report an abrasion was found on the upper part of the chest region. There is no opinion of the doctor with regard to the duration of the said injury. It is contended that the said injury is self inflicted and cannot be connected with the offence. The applicant did not act inappropriately with the victim. The allegation of violation of SC/ST Act are general and made to lend colour to the prosecution case. At this stage there is no cogent evidence to link the applicant with the offence. The applicant does not have any criminal history. The applicant is in jail since 26.9.2023. 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 the first information report was lodged belatedly. The duration of injury has not been noticed by the doctor. The incident is alleged to have occurred at a public place. There is no independent witness to the incident. The allegation of violation of SC/ST Act are general and made to lend colour to the prosecution case. At this stage there is no substantive evidence against the applicant. The applicant has no criminal antecedents. Further the applicant has presently remained confined for more than two 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, **Narad** 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 :- 30.11.2023
S.S.