

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47138 of 2023

Applicant :- Abhishek @ Kalu

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajneesh Pratap Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri V.P. Tripathi, learned AGA for the State-opposite party.
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. 132 of 2022, under Sections 147, 148, 149, 323, 307 and 34 of I.P.C., Police Station- Lodha, District- Aligarh, during the pendency of trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. Fourteen persons, including the applicant, are nominated in the first information report. In the alleged incident, two persons have lost their lives and four persons sustained firearm injuries. Specific role of firing on the two deceased has been assigned to co-accused, Devendra and Rajkumar. Insofar as the applicant is concerned, a vague and general role has been assigned. The applicant has not been nominated as the principal offender who caused the injuries to the injured persons. Even in the statement of the injured, the applicant has not been nominated as the principal offender. It is next contended that identically placed co-accused, Lalit @ Golu, Sompal @ Somveer and Jitendra @ Jeetu, have been granted bail by this Court in Criminal Misc. Bail Application No. 22528 of 2023 vide order dated 19.05.2023. The applicant claims parity. The applicant is in jail since 11.07.2022, having no criminal history. 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 learned counsel for the parties and having perused the record this Court prima facie finds that the applicant has not been nominated as the principal offender who caused the injuries to the injured persons. Identically placed co-accused, Lalit @ Golu, Sompal @ Somveer and Jitendra @ Jeetu, have been granted

bail by this Court. Further, the applicant has no criminal antecedents and has remained confined for more than one year and four 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 delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

6. Let the applicant- **Abhishek @ Kalu**, involved in aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the 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;
- (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
Sachin Mishra