

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47586 of 2023

Applicant :- Chandrabhan @ Chandrabhag

Opposite Party :- State of U.P.

Counsel for Applicant :- Vishveshwar Mani Tripathi, Vikas Yadav

Counsel for Opposite Party :- G.A., Rajeev Ratan Shukla

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Vishveshwar Mani Tripathi, learned counsel for the applicant, Sri Rajeev Ratan Shukla, learned counsel for the informant as well as Sri C.P. Singh, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No. 347 of 2023, U/S 452, 323, 504, 506, 324, 307 IPC, Police Station Kasya, District Kushinagar, during the pendency of trial.
4. As per prosecution story, the applicant alongwith three other co-accused persons, is stated to have assaulted the informant and the members of the family of the informant causing injuries to three persons in all on 1.5.2023 at about 10.00 am.
5. Learned counsel for the applicant has argued that the applicant is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. He has further stated that the present FIR is a counterblast to the FIR No. 340 of 2023 instituted by the co-accused person Vakeel against the family members of the informant. It is also stated that there being a cross version, as the date and time of offence in both the FIRs is same, the applicant is entitled for bail, as at this point of time, it cannot be ascertained as to which party is the aggressor. It is also stated that the FIR itself is delayed by about four days and there is no explanation of the said delay caused.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further stated that there is no criminal history of the applicant.

The applicant is languishing in jail since 15.9.20223. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. and learned counsel for the informant have vehemently opposed the bail application on the ground that the injured persons have sustained grievous injuries and one of them are on vital organ, i.e. skull, as such, the applicant is not entitled for bail.

8. Keeping in view the nature of the offence, evidence on record regarding complicity of the accused, the larger mandate of the Article 21 of the Constitution of India, taking into consideration the fact that there is a cross version, coupled with the fact that the applicant has no criminal history, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

9. Let the applicant- **Chandrabhan @ Chandrabhag** who is involved in aforementioned case crime 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 following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 17.11.2023

Shalini