

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48129 of 2023

Applicant :- Wasid Ali Alias Chaman

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar

Counsel for Opposite Party :- G.A., Archana Tiwari, Shishir Kumar Tiwari

Hon'ble Vivek Varma, J.

1. Heard learned counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State and Sri Shishir Kumar Tiwari, counsel for the informant. 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. 121 of 2022, under Sections 307, 120B I.P.C., Police Station- Phoolpur, District- Prayagraj during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. The applicant was not named in the first information report. In the statement of the injured recorded after 12 days of the incident the role of firing has been assigned to the co-accused Mishri Lal. The applicant has not been nominated as the principal offender who caused the injury to the injured. It is next contended that the co-accused Mishri Lal has been granted bail by this court vide order dated 7.4.2023 passed in Criminal Misc. Bail Application No. 31330 of 2022. The applicant does not have any criminal history. The applicant is in jail since 4.10.2023. 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 applicant was not named in the first information report. In the statement of the injured recorded after 12 days of the incident the role of firing has been assigned to the co-accused Mishri Lal. The applicant has not been nominated as the principal offender who caused the injury to the injured. The co-accused Mishri Lal has been granted bail by this court. Further the applicant has no criminal antecedents. The applicant has presently remained confined for more than one month 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, **Wasid Ali Alias Chaman** 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.