

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48189 of 2023

Applicant :- Sunil Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant and Sri V.P. Tripathi, learned A.G.A. for the State-respondent.
3. 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. 293 of 2021 under Sections 323, 504, 506, 308, 452 and 34 of I.P.C., Police Station- Mehnagar, District- Azamgarh, during pendency of the trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. As per the allegations in the first information report, ten persons including the applicant, are alleged to have assaulted four injured. The injury sustained by three injured are found simple in nature. The injury no. 1, on the head of the injured, Bali Raj Yadav, was a fracture on right parieto temporal bone. Even in the statement of the four injured, no specific role of assault has been assigned to the applicant. It is contended that vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender who caused the injury no. 1 on the injured Bali Raj Yadav. The criminal history of the applicant has been explained in para nos. 2 and 3 of the supplementary affidavit. The applicant is in jail since 25.10.2023 and in case he is enlarged on bail, he will not misuse the said liberty.
5. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
6. Having heard counsel for the parties and having perused the record, this Court prima facie finds that a vague and general role of assault has been assigned to the applicant. The applicant has not been nominated as the principal offender who caused the injury no.

1 on the injured Bali Raj Yadav. At this stage, there is no substantive evidence against the applicant. Further, the applicant has remained confined for more than one month 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, without commenting on the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant- **Sunil Singh**, 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 temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

8. 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
Sachin Mishra