

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48338 of 2023

Applicant :- Jayprakash @ J.P.

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinay Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri Neeraj Kumar Mishra, learned A.G.A. 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. 322 of 2022, under Sections 307, 504 and 506 of I.P.C., Police Station- Patiyali, District- Kasganj, during the pendency of trial.

3. Counsel for the applicant submitted that the applicant was not named in the first information report. As per the allegations in first information report, three to four unknown persons are alleged to have fired on the son of the informant Omveer and one Sumit. The applicant was arrested in Case Crime No. 2 of 2023, Police Station- Patiyali, District- Kasganj along with three other persons and has been falsely implicated in the present case. In the alleged incident, injuries have been sustained by the son of the informant, Omveer. The said injury is on non-vital part of the body. Except the confessional statement of the applicant in Police custody, there is no other evidence to link him with the offence. It is next contended that the co-accused, Rahees, who was arrested along with the applicant, has been granted bail by this Court vide order dated 28.04.2023 in Criminal Misc. Bail Application No. 17994 of 2023. The criminal history of the applicant has been explained in para no. 3 of the supplementary affidavit. The applicant is in jail since 06.01.2023 and in case, he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. for the State 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. Except the confessional statement of the applicant in Police custody, there is no other evidence to link him with the offence. At this stage, there is no

substantive evidence against the applicant. Further, the co-accused, Rahees, who was arrested along with the applicant, has been granted bail by this Court. The applicant has remained confined for more than ten months and after submission of the charge-sheet 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 **Jayprakash @ J.P.**, involved in the aforesaid 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 the conditions that he:

(i) shall appear on the date fixed by the trial court;

(ii) shall not tamper with the prosecution evidence; and,

(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 :- 30.11.2023

Sachin Mishra