

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48702 of 2023

Applicant :- Tahir

Opposite Party :- State of U.P.

Counsel for Applicant :- Suved Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri P.K. Giri, Additional Advocate General assisted by Sri Pankaj Kumar, learned A.G.A. for the State and 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. 584 of 2023, under Sections 147, 148, 149, 307, 336, 323, 504, 506, 295, 295-A, 153-A, 505(2) I.P.C. and 7 Criminal Law Act, Police Station- Baradari, District- Bareilly during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. In the first information report 11 named co-accused and 100 to 150 unknown persons are nominated. The applicant was not named in the first information report. The name of the applicant surfaced during investigation. The role of the applicant is clearly distinguishable from that of the named accused. In the alleged incident no person has received any injury nor any idol was found broken. Vague and general allegation has been levelled against the applicant. At this stage there is no cogent evidence to link the applicant with the offence. The applicant does not have any criminal history. The applicant is in jail since 29.8.2023. 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. The name of the applicant surfaced during investigation. The investigating officer has not collected any medical report of the injured persons, nor the CCTV footage is part of the case diary. Vague and general allegations have been levelled. At this stage there is no substantive evidence

against the applicant. Further, the applicant has no criminal antecedents. The applicant has presently remained confined for more than three 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 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, **Tahir** 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 :- 1.12.2023
S.S.