

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49827 of 2023

Applicant :- Mahendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Srivastava

Counsel for Opposite Party :- G.A.,Mohd Rehan Ansari,Pradeep Kumar

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant, Sri Pradeep Kumar, counsel for the informant and Sri V.P. Tripathi, learned A.G.A. for the State-respondent.

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. 191 of 2023 under Sections 147, 452, 323, 504, 325, 506, 307 and 34 of I.P.C., Police Station- Qyoladiya, District- Bareilly, during pendency of the trial.

3.Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, eight persons, including the applicant, are alleged to have assaulted five persons. The injury no. 5 sustained by Ram Bhajan on his left leg and the injury no. 6 sustained by Aman Pal on his right leg were found grievous in nature whereas the other injuries sustained by injured persons were found simple in nature. In the statement of the five injured, a 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. 5 on Ram Bhajan and injury no. 6 on Aman Pal. It is next contended that there is a cross version of the incident. From the side of the applicant, three persons have received injuries. The aggressor is still to be ascertained.The applicant is in jail since 14.09.2023, having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. and counsel for the informant have 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 a 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. 5 on

Ram Bhajan and injury no. 6 on Aman Pal. There is a cross version of the incident. Both sides have received injuries. The aggressor is still to be ascertained. Further, the applicant has no criminal antecedents and has remained confined for more than three months 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.

6. Let the applicant- **Mahendra**, 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;
- 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 :- 13.12.2023
Sachin Mishra