

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49571 of 2023

Applicant :- Sandeep

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
2. The present application for bail has been filed seeking bail in Case Crime No.637 of 2023, under section 307, IPC, Police Station Barhalganj, District Gorakhpur.
3. Learned counsel for the accused-applicant submitted that the applicant has been falsely implicated in the instant case due to ulterior motives. There is some property dispute between the injured and his family member. According to medical report of the injured lacerated wounds on the neck, however, no major blood vessel was injured. It is also submitted that during course of argument on bail before the trial court the injured himself moved an affidavit stating that he did not named the applicant. He submits that main allegation is against co-accused Vishal Sahni, who is the son of injured and the applicant is cousin of co-accused Vishal Sahni. It is also submitted that co-accused Vishal Sahni has already been enlarged on bail by the co-ordinate Bench of this Court in Criminal Misc. Bail Application No.47063 of 2023 vide order dated 06.11.2023. Apart from the present case the applicant has no criminal history, as mentioned in para-23 to the affidavit filed in support of the bail application. The applicant is in jail since 31.08.2023 having no criminal history and in case he is granted bail, he will not misuse the liberty and would cooperate in the trial proceedings.
4. On the other hand, learned AGA has opposed the prayer for bail but could not controvert the above mentioned facts.
5. Considering the facts and circumstances of the case and taking into account that according to medical report of the injured lacerated wounds on the neck, however, no major blood vessel was injured, during course of argument on bail before the trial court the injured himself moved an affidavit stating that he

did not name the applicant, main allegation is against co-accused Vishal Sahni, who is the son of injured and the applicant is cousin of co-accused Vishal Sahni, who has already been enlarged on bail by the co-ordinate Bench of this Court in Criminal Misc. Bail Application No.47063 of 2023 vide order dated 06.11.2023, apart from the present case the applicant has no criminal history, as mentioned in para-23 to the affidavit filed in support of the bail application, applicant is in jail since 31.08.2023 and undertakes that in case he is enlarged bail, he will not misuse the liberty and would cooperate in the trial proceedings, without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

6. Let applicant **Sandeep** be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

(v) The applicant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

It is made clear that applicant shall not directly or indirectly indulged on threat to the injured regarding property dispute and shall not tempered oral or documentary evidence.

(Renu Agarwal,J.)

Order Date :- 22.11.2023

VKG