

**Court No. - 74**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 50319 of 2023

**Applicant :-** Rakesh @ Minna

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Dharmendra Pratap Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Vivek Varma,J.**

1. Supplementary affidavit, filed by the counsel for the applicant, is taken on record.

2. Heard learned Counsel for the applicant, Sri V.P. Tripathi, learned A.G.A. for the State and perused the record.

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. 211 of 2023, under Sections 147, 148, 149, 307, 386, 120B I.P.C., and 7 CRLA Act, Police Station- Bhopa, District- Muzaffarnagar during pendency of the trial.

4. Counsel for the applicant submits that the applicant was not named in the first information report and has been falsely implicated in the instant case. The name of the applicant was disclosed by the named accused Robin @ Golu in police custody. The said statement, insofar as it implicates the applicant, is unreliable. In the alleged incident, no person has received any injury. It is next contended that identically placed co-accused Vishal @ Kaku and Sujeet have been granted bail by this Court vide orders date 20.11.2023 and 8.11.2023 passed in Criminal Misc. Bail Application Nos.49067 of 2023 and 27706 of 2023 respectively. The applicant claims parity. The criminal history of the applicant has been explained in para 19 of the bail applicant and in para 2 of the supplementary affidavit. The applicant is in jail since 17.8.2023. 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 the applicant was not named in the first information report. The name of the applicant was disclosed by the named accused Robin @ Golu in police custody. In the alleged incident no injury was sustained by any person. Identically placed co-accused Vishal @ Kaku and Sujeet have been granted bail by this Court. Further 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.

7. Let the applicant, **Rakesh @ Minna** 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.

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 :- 2.12.2023**

S.S.