

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49002 of 2023

Applicant :- Satendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Tawwab Ahmed Khan

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

Supplementary affidavit filed on behalf of applicant is taken on record.

Heard Mr. Tawwab Ahmed Khan, learned counsel for the applicant, learned A.G.A. and perused the record.

The present first bail application has been filed on behalf of the applicant in Case Crime No.113 of 2023, under Sections 147, 148, 149, 341, 149, 352, 323, 307, 504, 506, 120-B I.P.C., Police Station Parikshit Garh, District Meerut with the prayer to enlarge him on bail.

Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to malafide intentions. There are six accused persons named in the FIR. Applicant is not named in the FIR, his name came into light during investigation on the statement of co-accused Raja. Nothing has been recovered from the possession of the applicant. No specific role has been assigned against the applicant. Pistol was recovered from the pointing out of co-accused Raja @ Priyanshu. The case is covered by **Satender Kumar Antil Vs. Central Bureau of Investigation and another**, reported in **2021 SCC OnLine SC 922**. Criminal history of the applicant has been explained in paragraph nos.21 to 24 of the affidavit filed in support of the present bail application and in all the cases applicant has been enlarged on bail. Learned counsel for the applicant further submits that as per injury report, the injured has suffered firearm injury, however, as per statement of the injured the firearm injury has been caused by the co-accused Raja. Co-accused Atul has already been granted bail by a co-ordinate Bench of this Court vide order dated 06.11.2023 passed in Criminal Misc. Bail Application No.34474 of 2023. Applicant is languishing in jail since

16.04.2023 and if he is granted the liberty of bail, he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds.

On the other hand, learned AGA has opposed the prayer of bail and submitted that the alleged weapon used in the incident has been recovered from the house of the applicant on the pointing of co-accused Raja. The role of assaultation is assigned to the present applicant. Applicant has criminal history, therefore, the applicant is not entitled for the bail.

Considering the fact that the case and from the perusal of the record, it transpires that applicant has been assigned the role of assaultation but as per the statement of injured all the accused are carrying weapons in the hand but no recovery has been made from the possession of the applicant. Main role is assigned to co-accused Raja @ Priyanshu, on his pointing out the alleged weapon was recovered. The criminal history of the applicant has well explained. In the similar circumstances, co-accused Atul has already been enlarged on bail.

Without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

Accordingly, the present bail application is allowed.

Let applicant **Satendra** be released on bail in the above case crime number and 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.

Order Date :- 11.12.2023

I.A.Siddiqui