

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49386 of 2023

Applicant :- Himanshu And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Pradeep Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicants, 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 applicants on bail in Case Crime No. 180 of 2023, under Sections 323, 326, 504, 506 I.P.C., Police Station- Atrauliya, District- Azamgarh during pendency of the trial.

3. Counsel for the applicants submits that the applicants have been falsely implicated in the instant case. As per the allegations in the first information report four persons including the applicants are alleged to have assaulted four persons. As per the injury report of three injured the injuries sustained by them are simple in nature. However, the injury no.1 sustained by the fourth injured Amit on his right eye was grievous in nature. A vague and general role has been assigned to the applicants. The author of the injury caused on the right eye of Amit is not known. It is next contended that identically placed co-accused Ram Dular @ Dular and Brij Mohan have been granted bail by this Court in Criminal Misc. Bail Application No. 38302 of 2023 vide order dated 26.09.2023. The applicants claim parity. The applicants do not have any criminal history. The applicants are in jail since 04.08.2023. In case they are enlarged on bail, they 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 a vague and general role has been assigned to the applicants. Identically placed co-accused Ram Dular @ Dular and Brij Mohan have been granted bail by this Court. The applicants have no criminal antecedents. Further, the applicants have 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 applicants, 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 applicants are entitled to be enlarged on bail.

6. Let the applicants **Himanshu and Suvash @ Subhash** involved in the aforesaid case be released on bail on their 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 applicants shall not temper with the prosecution evidence;
- ii. the applicants shall not pressurize the prosecution witness;
- iii. the applicants 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 :- 21.11.2023

Lbm/-