

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49246 of 2023

Applicant :- Vipul Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Kumar Verma

Counsel for Opposite Party :- G.A., Syed Mohd. Abbas Ali, Vipul Shukla

Hon'ble Umesh Chandra Sharma,J.

1. Heard Sri Rajesh Kumar Verma, learned counsel for the applicant, Sri Syed Mohd. Abbas Ali, learned counsel for the informant as well as 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 the prayer to enlarge the applicant on bail in Case Crime No. 375 of 2023 under Sections 147, 148, 149, 307, 323, 324, 504, 452 I.P.C., Police Station- Khutar, District- Shahjahanpur, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. The applicant was not involved in present offence. The injuries are manipulated as it was prepared without giving chitthi majrubi of which no G.D. entry was made by the police. Though the applicant has been assigned role of having caused injuries from the sword, however, there is no such injuries on the person of the injured. The injuries are on non vital part of the body of the injured. The allegedly recovered sword and fire arm are false and planted as there is no independent witness of the same. It is next contended that the co-accused Ram Babu Dikshit, Shivanshu Dikshit and Pawan Kumar Shukla, who have been assigned role of causing fire arm injuries, have been granted bail by co-ordinate Bench of this Court in Criminal Misc. Bail Application No. 36477 of 2023, 43236 of 2023 and 47076 of 2023, vide order dated 30.10.2023, 20.11.2023 and 24.11.2023 respectively. The applicant claims parity. The applicant is in jail since 28.6.2023, having no criminal history, in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. and learned counsel for informant have opposed

the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

5. Having regard to the submissions made above and the fact that the applicant has remained confined for almost two months, and the co-accused have been enlarged on bail, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either temper 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- **Vipul Kumar**, involved in aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence;
- (iii) shall not pressurize the prosecution witnesses.

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 :- 6.12.2023

S.Verma