

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49551 of 2023

Applicant :- Pankaj Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Sanjay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned counsel for the applicant and Sri V. P. Tripathi, learned AGA for the State-respondent.

2. 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. 87 of 2023, under Sections 307, 427 IPC and 3/57 U.P. Minor-Minerals (Concession) Rules, P.S.- Jaitpur, District- Agra, during the pendency of trial.

3. Counsel for the applicant submits that the applicant was not arrested at the spot and has been falsely implicated in the present case. The applicant was named as an accused in the FIR in pursuance of a statement of co-accused Sonu before the police authorities. The said statement insofar as it implicates the applicant is unreliable. In the alleged incident, the injuries sustained by the injured are simple in nature. It is next contended that the co-accused Sonu, who was arrested at the spot, has been granted bail by this Court vide order dated 21.11.2023 passed in Criminal Misc. Bail Application No. 49433 of 2023. The case of the applicant is on better footing to that of the co-accused. The applicant is in jail since 15.10.2023, having no criminal history and in case he is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA 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 the applicant was not arrested at the spot. The applicant was named as an accused in the FIR in pursuance of a statement of co-accused Sonu before the police authorities. In the alleged incident the injuries sustained by

the injured, are simple in nature. The co-accused, Sonu has been granted bail by this Court. At this stage, there is no substantive evidence against the applicant. The applicant has no criminal antecedents. The applicant has remained confined for more than a month and after submission of the charge-sheet 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 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 **Pankaj Yadav**, involved in the 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; and,
- (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

Sharad/-