

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49761 of 2023

Applicant :- Vishnu @ Bittu

Opposite Party :- State of U.P.

Counsel for Applicant :- Mehdi Abbas

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Supplementary affidavit filed by counsel for the applicant is taken on record.
2. Heard counsel for the applicant and Sri V.P. Tripathi, learned A.G.A. for the State-respondent.
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. 214 of 2023 under Sections 452, 326, 325, 307, 323, 504, 506 and 34 of I.P.C., Police Station- Debai, District- Bulandshahar, during pendency of the trial.
4. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, four co-accused, including the applicant are alleged to have assaulted Mahendra and Chandraprakash. No injury report is available in the case diary with regard to the injured, Chandraprakash. The other injured, Mahendra has received injuries on right side of his face. In the opinion of the doctor, the said injury was found grievous in nature. It is contended that the author of the said injury is not known. A vague and general role has been assigned to the applicant. Even in the statement of the injured Mahendra, the applicant has not been nominated as the principal offender who caused the said injury. The criminal history of the applicant has been explained in para no. 15 of the bail application. The applicant is in jail since 28.07.2023 and 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 a vague and general role has been assigned to the applicant. Even in the statement of the

injured Mahendra, the applicant has not been nominated as the principal offender who caused the injury on his face. At this stage, there is no clarity with regard to the role of the applicant. Further, the applicant has remained confined for more than three months and 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.

7. Let the applicant- **Vishnu @ Bittu**, 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 temper 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 :- 13.12.2023
Sachin Mishra