

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50018 of 2023

Applicant :- Bhullan Yadav And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Lalji Yadav, Yashpal Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicants and Sri V.P. Tripathi, learned A.G.A. for the State-respondent.

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. 165 of 2009, under Sections 147, 148, 149, 323, 504, 506, 353, 332, 336, 307, 395, 189, 427 I.P.C., 7 Criminal Law Amendment Act and 2/3 Prevention of Damage to Public Property Act, Police Station Jatahan Bazar, District Kushinagar during the pendency of the trial

3. Counsel for the applicants contends that the applicants were not named in the first information report and have been falsely implicated in the present case. In the first information report 13 named accused and 200-300 unknown persons are nominated. The names of the applicants surfaced during investigation. A vague and general role has been assigned to the applicants. The applicants have not been nominated as the principal offenders, who assaulted the injured constables. It is next contended that identically placed co-accused, Lallan Yadav, has been granted bail by this Court in Criminal Misc. Bail Application No. 51572 of 2023 vide order dated 02.12.2023. The applicants are in jail since 10.10.2023, having no criminal history. In case, they are enlarged on bail, they 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 the applicants were not named in the first information report. The names of the applicants surfaced during investigation. A vague and general role has been assigned to the applicants. The applicants have not been nominated as the principal offenders, who assaulted the injured constables. Identically placed co-accused, Lallan

Yadav, has been granted bail by this Court. Further the applicants have remained confined for more than two months 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 applicants, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicants are entitled to be enlarged on bail.

6. Let the applicants- **Bhullan Yadav and Swaminath**, involved in aforesaid case be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that they:

(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 :- 13.12.2023

Aditya