

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50413 of 2023

Applicant :- Baj Bahadur And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Sachida Nand Tiwari, Bharat Singh

Counsel for Opposite Party :- G.A., Dheeraj Kumar Singh

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicants, Sri Dheeraj Kumar Singh, counsel for the informant and Sri Neeraj Kumar Sharma, learned A.G.A. for the State-opposite party.

2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicants on bail in Case Crime No. 215 of 2022 under Sections 147, 323, 308, 504 and 506 I.P.C., Police Station- Karchhana, District- Prayagraj, during the pendency of the trial.

3. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. As per the allegations in the first information report, the applicants are alleged to have assaulted Raj Bahadur and Devi Shankar. As per the medical report of Raj Bahadur, he has received four injuries. The injury no. 1 on the head and the injury no. 4, abrasion at left clavicle, were kept under observation. As per supplementary examination report of Raj Bahadur linear fracture on left temporal bone was seen whereas injuries sustained by Devi Shankar were found simple in nature. It is contended that the author of the injury no. 1 found on the head of the Raj Bahadur is not known. Even in the statement of the injured, the author of the injury no. 1 was not disclosed. It is next contended that there is a cross version of the incident. From the side of the applicants including the applicant no. 1 received injuries. From the side of the informant, five persons received injuries. The aggressor is still to be ascertained. The applicant is in jail since 17.10.2023, having no criminal history. In case he is enlarged on bail, he will not misuse the said liberty.

4. Learned A.G.A. and counsel for the informant have 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 applicants are alleged

to have caused injuries on Raj Bahadur and Devi Shankar. The author of the injury no. 1 found on the head of the Raj Bahadur is not known. There is a cross version of the incident. Both side have received injuries. At this stage, there is no clarity with regard to the role of the applicants. Further the applicants have no criminal antecedents and have remained confined for more than one 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 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- **Baj Bahadur and Maneesh 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 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 :- 2.12.2023
Sachin Mishra