

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50612 of 2023

Applicant :- Sunil Kumar

Opposite Party :- State of U.P.

Counsel for Applicant :- Abhishek Kumar Jaiswal, Umesh Chandra Shukla

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. 117 of 2020, under Sections 323, 504, 308 IPC, Police Station Ram Nagar, District Varanasi, during the pendency of trial.

3. 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, three persons including the applicant are alleged to have assaulted the father of the informant. As per the medical report, the injured sustained a single injury on his head. A vague and general role has been assigned to the applicant. The applicant has not been nominated as the principal offender, who caused the injury on the head of the injured. It is next contended that there is a cross version, the co-accused Ashok Kumar has also received injury. The aggressor is still to be ascertained. Identically placed co-accused Babulal and Ashok Kumar have been granted bail by this Court vide order dated 25.04.2023 passed in Criminal Misc. Bail Application No. 15899 of 2023. Prior to the instant case, the applicant does not have any criminal history, however, after his arrest, he has been implicated in another case. The applicant is in jail since 20.08.2023 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 a vague and general role has been assigned to the applicant. There is a cross version of the incident. Both sides received injuries. Identically placed co-accused Babulal and Ashok Kumar have been granted bail by this Court. 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 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 **Sunil Kumar**, 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 :- 12.12.2023

Lbm/-