

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50981 of 2023

Applicant :- Himanshu

Opposite Party :- State of U.P.

Counsel for Applicant :- Ishwar Chandra Tyagi

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.
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. 601 of 2023 under Sections 147, 148, 149, 307, 504 I.P.C., Police Station- Naugawan Sadat, District- Amroha, during the pendency of the trial.
3. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. Neither any specific role has been assigned to the applicant nor any incriminating article has been recovered from the possession of the applicant. The role of firing on the injured, Mitin, has been assigned to the co-accused Sohit. It is next contended that the co-accused Ankit having identical role, has been granted bail by this court in Criminal Misc. Bail Application No. 52527 of 2023 vide order dated 7.12.2023. The applicant claims parity. The applicant is in jail since 24.10.2023, in case he is enlarged on bail, he will not misuse the said liberty.
4. Learned A.G.A. has opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.
5. Having regard to the submissions made above and the fact that the applicant has remained confined for more than one month, and the co-accused has been enlarged on bail, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either temper 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- **Himanshu**, 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 he:

- (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 :- 12.12.2023

S.Verma