

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50959 of 2023

Applicant :- Ravi Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Siddharth Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

1. Heard learned counsel for the applicant, learned A.G.A. and perused the record.
2. The present application under Section 439 Cr.P.C has been filed seeking bail in Case Crime No.274 of 2023 under Sections 307, 504, 506 IPC and 4/25 Arms Act Police Station Raunapar District Azamgarh.
3. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to ulterior motive. The applicant and the injured are the real brother. The applicant is residing with his mother in the property inherited by his mother from the father of the applicant. It is also submitted that the informant wants to grab the aforesaid property. On the fateful day the injured under the influence of intoxicating substances started assaulting his mother due to which minor scuffle took place between the applicant and the injured. It is also submitted that though knife is said to have been recovered from the possession of the present applicant no blood stains were found on it. The injuries sustained by the injured were neither greivous nor found on any vital part of the body of the injured. It is also submitted that the doctor has opined that there was not need for the injured to undergo x-ray. The injured was discharged from the hospital on the next day. The applicant also sustained injuries in the scuffle. The

injury report of the applicant is annexed as annexure No. 8 to the affidavit filed in support of the bail application. Learned counsel for the applicant has placed reliance on the judgment of Supreme Court in the case of Lakshmi Singh and others Vs. State of Bihar reported at AIR 1976 SC 2268 to contend that the omission on the part of the prosecution to explain the injuries on the person of the accused assumes much greater importance where the evidence consist of interested or inimical witnesses or where the defence gives a version which competes in probability with that of the prosecution one. The applicant has no criminal history apart from this case. The applicant is languishing in jail since 24.08.2023, in case he is enlarged on bail, he will not misuse the liberty of bail and will cooperate in the trial proceedings.

4. On the other hand, learned AGA has opposed the prayer for bail but could not controvert the aforesaid factual matrix.

5. Considering the facts and circumstances of the case and taking into account that the dispute arose on account of division of ancestral property, the injured did not sustain any grievous injuries, the applicant has also sustained injuries in the scuffle, there is no public witness to the recovery of knife shown from the applicant and that too the recovered knife does not have any blood stain and without expressing any opinion on the merit of the case, it would be appropriate to enlarge the accused-applicant on bail.

6. The bail application is allowed.

7. Let applicant Ravi Yadav be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in

accordance with law.

(v) The applicant shall also furnish an undertaking from the sureties that the properties (movable/immovable) which are the basis of accepting the surety, shall not be disposed of by them till the conclusion of trial.

(vi) The applicant shall also give an undertaking to the effect that he will not change his address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 29.11.2023
Nadeem