

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51699 of 2023

Applicant :- Vikas Kumar Maddhesiya

Opposite Party :- State of U.P.

Counsel for Applicant :- Santosh Kumar Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Santosh Kumar Mishra, learned counsel for the applicant, Sri Jitendra Kumar Jaiswal, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.429 of 2023, under Sections 323, 34, 326, 504, 506 I.P.C., Police Station Rudrapur, District Deoria, during the pendency of trial.
4. As per prosecution case, the applicant and co-accused person Shani Yadav are stated to have assaulted and caused injuries to the son of the informant Siddharth Shukla and one relative Sumit Shukla on 24.10.2023 at about 10:30 p.m. when they were attending procession of Durga idol immersion. It is alleged that applicant had chopped off his right ear pinna.
5. Learned counsel for the applicant has argued that he is absolutely innocent and has been falsely implicated in the present case with a view to cause unnecessary harassment and to victimize him. All the injuries are simple except injury no.1 which is loss of part of right ear pinna. Learned counsel has stated that even the FIR and statement of injured and eye-witness does not indicate about the weapon used in the said offence. Learned counsel has also placed reliance on the statement of the independent witnesses Ajay Baranwal and Arjun Rajbhar who have categorically stated that applicant is a drunkard and used to quarreling with the people of the locality, as such the offence as alleged in the FIR is concocted.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further stated that there is no criminal history of

the applicant. The applicant is languishing in jail since 28.10.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Per contra, learned A.G.A. has vehemently opposed the bail application on the ground that medical report indicates that there is loss of part of right ear pinna and the statement of Dr. Pradeep Kumar Gupta indicates that the said injury is grievous in nature.

8. After hearing learned counsel for the applicant and learned A.G.A., the evidence on record and taking into consideration the statement of independent witnesses coupled with the statement of injured and eye-witness, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

9. Let the applicant- **Vikas Kumar Maddhesiya**, who is involved in aforementioned case crime 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 following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) 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.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 2.12.2023
Vikas

[Krishan Pahal, J.]