

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51973 of 2023

Applicant :- Mohan Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Dileep Singh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard counsel for the applicant and Sri V.P. Tripathi, learned A.G.A. 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. 486 of 2023 under Sections 307, 323 and 504 of I.P.C. and Section 3/25/27 of Arms Act, Police Station- Bewar, District-Mainpuri, during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. As per the allegations in the first information report, the applicant is alleged to have caused fire arm injury on Kunwar Bahadur. The injured was admitted in Maharaja Tej Singh, District Male Hospital, Mainpuri on 25.09.2023 at 10.10 P.M and was discharged on 26.09.2023 at 09.00 A.M. The injured, thereafter, was taken to Uttar Pradesh University of Medical Sciences, Saifai, Etawah and was admitted on 26.09.2023 at 10:58 A.M. and was discharged on 28.09.2023. The discharge summary states that the injured had a wound on his face due to alleged history of fire arm injury. It is contended that the nature of the injury is not clear. The statement of the doctor was also not recorded by the Investigating Officer. The applicant is in jail since 12.10.2023, having no criminal history and 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 heard counsel for the parties and having perused the record, this Court prima facie finds that at this stage, the nature of the injury caused to the injured is not clear. There is no statement of the doctor available on record with regard to the alleged injury. At this stage, there is no substantive evidence against the applicant. Further, the applicant has no criminal antecedents and has remained confined for more than one month and 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- **Mohan Singh**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness; and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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 :- 5.12.2023

Sachin Mishra