

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52532 of 2023

Applicant :- Sanjeev And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Mukesh Chandra Gupta, Shubham Prakash Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal, J.

1. Heard learned counsel for the applicants, learned A.G.A. for the State and perused the record.

2. The present first bail application under Section 439 Cr.P.C. has been filed on behalf of applicants in Case Crime No. 194 of 2023 under Sections 147, 148, 149, 452, 323, 324, 307, 352, 504, 506 I.P.C. Police Station Kankerkheda, District Meerut with the prayer to enlarge him on bail.

3. Learned counsel for the accused-applicants submitted that the applicants are innocent and have been falsely implicated in the instant case due to malafide intentions. It is submitted that there is contradiction in the statement of injured and the statement of Doctor. It is further submitted that the contents of the F.I.R. are not supported with the injury report and Doctor has opined in his statement that injury sustained to both the injured are simple in nature and no bony injury is found at the time of medical examination. It is contended that all the injuries

sustained are simple in nature. It is further contended that initially F.I.R. was registered under Section 147, 148, 149, 452, 323, 325, 326, 352, 504, 506 I.P.C., thereafter, on the basis of supplementary report, vide C.D. No. 9 dated 08.06.2023, Sections 325 and 326 were deleted and investigation was carried out under Section 147, 148, 49, 452, 323, 352, 504, 506 I.P.C.. After investigation, it was found that offence under Section 324 and 307 I.P.C. is made out against the applicant and the same was added, and charge-sheet was submitted under Section 147, 148, 149, 452, 323, 324, 307, 352, 504, 506 I.P.C. It is next contended that applicant has no criminal history apart from this case and co-accused Mahendra and Premwati has been enlarged on bail by this Court and co-ordinate Bench of this Court vide orders dated 09.08.2023 and 01.11.2023 passed in Criminal Misc. Bail Application No.32490 of 2023 and Criminal Misc. Bail Application No. 46046 of 2023 respectively. Applicants are languishing in jail since 17.11.2023, having no criminal antecedents and if he is granted the liberty of bail he will not misuse the same and he is ready to furnish his sufficient sureties, bonds and personal bonds.

4. On the other hand, learned AGA has opposed the prayer of bail but could not controvert the aforesaid arguments as advanced by learned counsel for the applicant.

5. Considering the fact that the injuries sustained by the injured as opined by the Doctor are simple in nature, injuries sustained as per the F.I.R. is

not supported with the medical report or the statement of Doctor, co-accused have already been enlarged on bail, applicants are languishing in jail since 17.11.2023 having no criminal antecedents to their credit apart from this case and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail.

6. Let applicants **Sanjeev, Ravindra and Madan** be released on bail in the above case crime number on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicants shall file an undertaking to the effect that they 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 applicants shall remain present before the trial court on each date fixed, either personally or through their counsel. In case of their absence, without sufficient cause, the trial court may proceed against them under Section 229-A of the Indian Penal Code.

(iii) In case, the applicants misuses the liberty of bail during trial and in order to secure their presence proclamation under Section 82 Cr.P.C. is issued and the applicants fail to appear before the court on the date fixed

in such proclamation, then the trial court shall initiate proceedings against them, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicants 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 applicants are 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 them in accordance with law.

(v) The applicants 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 applicants shall also give an undertaking to the effect that they will not change their address without prior intimation to the trial court concerned.

(Renu Agarwal,J.)

Order Date :- 7.12.2023

Karan