

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52699 of 2023

Applicant :- Aabid

Opposite Party :- State of U.P.

Counsel for Applicant :- Narendra Nath Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Vivek Varma,J.

1. Heard learned Counsel for the applicant, Sri V.P. Tripathi, 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 a prayer to enlarge the applicant on bail in Case Crime No. 100 of 2023, under Sections 307, 452, 323, 504, 506, 34 I.P.C., Police Station- Bhatni, District- Deoria during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. Four persons including the applicant are alleged to have assaulted the informant and her husband Riaz Ansari. No injury report is available with regard to the informant. Riaz Ansari received three injuries. The injury no.1 was referred for x-ray examination, whereas injury nos. 2 and 3 were found simple in nature. As per NCCT head fracture on frontal bone was noticed by the radiologist. It is next contended that vague and general role has been assigned to the applicant. The applicant has not been nominated as principal offender who caused injury no.1 on the head of Riaz Ansari. It is a cross case. From the side of the applicant also three persons received injuries. The aggressor is still to be ascertained. Further, identically placed co-accused Azad Husain and Rafeeq have been granted bail by this Court vide orders dated 26.9.2023 and 17.10.2023 passed in Criminal Misc. Bail Application Nos. 41674 of 2023 and 44020 of 2023 respectively. The applicant claims parity. The applicant does not have any criminal history. The applicant is in jail since 4.7.2023. 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 heard counsel for the parties and having perused the record, this Court prima facie finds that vague and general role has

been assigned to the applicant. The applicant has not been nominated as principal offender who caused injury no.1 on the head of Riaz Ansari. It is a cross case. From the side of the applicant also three persons received injuries. Further, identically placed co-accused Azad Husain and Rafeeq have been granted bail by this Court. The applicant has no criminal antecedents. The applicant has presently remained confined for more than five months and there is no hope of early conclusion of trial, more so when 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 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, **Abid** 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 tamper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
- 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 :- 8.12.2023
S.S.