

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 52387 of 2023

Applicant :- Kallu Alias Vinod Kumar Jaiswal

Opposite Party :- State of U.P.

Counsel for Applicant :- Bipin Kumar, Mohd. Naushad Siddiqui

Counsel for Opposite Party :- G.A., Agnihotri Kumar Tripathi

Hon'ble Vivek Varma, J.

1. Heard counsel for the applicant, Sri Agnihotri Kumar Tripathi, counsel for the informant and Sri Neeraj Kumar Sharma, 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. 195 of 2022 under Sections 147, 148, 149, 307, 327, 325, 504 and 506 of I.P.C., Police Station- Chakiya, District- Chandauli, during pendency of the trial.

3. Counsel for the applicant submits that the applicant has been falsely implicated in the present case. In the first information report, four named co-accused including the applicant and two unknown persons are alleged to have assaulted the father of the informant. Subsequently, the applicant was nominated as the offender who assaulted on the head of the injured. As per the medical report, the injured received nine injuries. Injury nos. 3, 4, 8 and 9 were found simple in nature and caused by hard and blunt object. The injury no. 1 on the head of the head and injury nos. 2, 5, 6 and 7 were referred to the radiologist. As per the report of the radiologist the injury no. 6 is a fracture of 4th metacarpal bone. No abnormality on the skull was noticed. It is contended that the case will not travel beyond Section 324 I.P.C. Further, the co-accused, Munna Prasad has been granted bail by this Court vide order dated 11.10.2023 passed in Criminal Misc. Bail Application No. 43251 of 2023. The criminal history of the applicant has been explained in para no. 22 of the bail application. The applicant is in jail since 27.10.2023 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 as per the report of the

radiologist, no abnormality on the skull was noticed. Other injuries were on non-vital part of the body. The co-accused, Munna Prasad has been granted bail by this Court. At this stage, there is no substantive evidence against the applicant. Further, the applicant has remained confined for two months 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- **Kallu Alias Vinod Kumar Jaiswal**, 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;
- 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 :- 7.12.2023
Sachin Mishra