

Court No. - 77

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53676 of 2023

Applicant :- Avinash @ Sittu Shukla @ Avaneesh Shukla

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashutosh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Renu Agarwal,J.

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

2. The present first bail application has been filed on behalf of the applicant in Case Crime No. 165 of 2023, under Sections 323, 504, 506 and 307 I.P.C. Police Station Salempur, District Deoria with the prayer to enlarge him on bail.

3. Learned counsel for the accused-applicant submitted that the applicant is innocent and has been falsely implicated in the instant case due to mala fide intentions after the incident occurred on 16.02.2023, applicant has been involved in the present case. FIR is delayed by four days and no plausible explanation is given for the delay in lodging the FIR. Applicant was injured and was referred to the District Hospital, Deoria for examination. However, x-ray and CT scan were conducted on 11.07.2023, in which, fracture is seen in the temporal wound. Learned counsel for the applicant further submits that the main allegation of assault is against the co-accused Shubham and not against the present applicant. It is stated that Rs. 50,000/- has been taken out from the pocket of the applicant. The applicant has no criminal apart from this case and the applicant is a student. Applicant is languishing in jail since 21.10.2023 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 facts and circumstances of the case and fact that no plausible explanation for the delay in lodging the FIR has been given, the main role has been assigned to the co-accused Shubham, the applicant has no criminal history apart from the instant case and is languishing in Jail since 21.10.2023, **the case of the present applicant is hereby distinguished from that of co-accused**

Shumbham and without expressing any opinion on the merits of the case, accused-applicant is liable to be released on bail.

6. Let **applicant-Avinash @ Sittu Shukla @ Avaneesh Shukla** be released on bail in the above case crime number and on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

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

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant 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 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.

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

Order Date :- 14.12.2023
Akram