

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6303 of 2023

Applicant :- Krishna Kumar @ Babloo

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Devendra Pratap Azad,Irfan Khan,Rajendra Kumar

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Irfan Khan, the learned counsel for the applicant, Sri Anant Pratap Singh, the learned A.G.A. for the State and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.105 of 2023, under Sections 323, 506, 308 I.P.C., registered at Police Station Mamoodabad, District Sitapur.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 09.03.2023 alleging that the informant's father had been beaten up on 08.03.2023 regarding which a non-cognizable report was lodged on the same day. Subsequently, the informant came to know that his father had been beaten up by the informant's father in law for the reason that there was some matrimonial dispute between the informant and his wife and he was forced to enter into a settlement under which Rs.8,00,000/- and some jewellery were to be handed over by the informant and his father.
4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history.

5. The learned counsel for the applicant has submitted that the first information report was given by the victim's brother, who stated that the victim used to work as a salesman in a liquor shop and some dispute had occurred regarding sale of liquor with some persons and while the victim was returning after closing the shop at 10.00 p.m. some unknown person had assaulted him. The learned counsel for the applicant has submitted that the F.I.R. can be lodged only on the basis of first information of the incident and the instant F.I.R. has been lodged on the second information which is not permissible in law.

6. The learned A.G.A. has opposed the prayer for bail and he has submitted that after investigation the allegations against the applicant were established and a charge sheet has already been submitted against him on 07.05.2023.

7. The learned counsel for the applicant has submitted that the applicant is languishing in jail since 10.03.2023 and not even a single witness has been examined till date.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant was not named in the first report of the incident submitted by the victim's brother; that the reason for causing the incident as alleged in the F.I.R. is disputed by the learned counsel for the applicant; that in the settlement entered into between the parties the first installment was to be paid on 15.03.2023, whereas the incident occurred on 08.03.2023; that neither the victim has stated about the applicant's involvement in commission of offence nor is there any other eye witness of the incident; that the applicant has no previous criminal history and he is languishing in jail since 10.03.2023 and not even a single witness has been examined till date and without making any

observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

9. Accordingly, this bail application stands **allowed**.

10. Let the **applicant- Krishna Kumar @ Babloo** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 1.12.2023
Ram.