

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11152 of 2023

Applicant :- Rakesh And Another

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

Counsel for Applicant :- Vijayendra Prakash Tripathi, Vaibhav

Srivastava, Vishnu Pratap Singh, Vivek Kumar Shukla

Counsel for Opposite Party :- G.A., Syed Ahmad Mehdi

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard learned counsel for applicants and learned A.G.A. for the State.
2. Counter affidavit filed on behalf of the State is taken on record.
3. The present bail application has been filed by the applicants seeking bail in case crime no. 151 of 2022, under sections 147, 148, 323, 504, 506, 325, 452, 308 I.P.C. at Police Station-Tarun, District-Faizabad/Ayodhya.
4. As per the version in the FIR, on account of property dispute with the other side, seven persons namely, Praveen Verma, Rakesh, Vikash, Dabloo, wife of Rakesh, daughter of Rakesh, mother of Rakesh intruded in the first informant's house, abusing them and physically assaulted the son and daughter in-law of the first informant causing them serious injuries. This incident occurred on the morning of 14.06.2022 at about 06.15.
5. It is contended on behalf of the applicants that because of inimical relations, the first informant has, in a malafide manner, named all the persons of his family including their other brothers, their wives and the mother. None of the injuries were caused on any vital party of the body of the lone injured person Ashok Verma. He sustained only four visible injuries of the nature of laceration and contusion and most of them were on limbs. None of the injuries were of the nature which could bring this case within section 308 IPC. It is further pointed out that before the FIR of this case, the brother of the accused/applicants lodged an FIR case crime no. 148 of 2022. It is contended that this is the reason that all the family members have been falsely implicated by the first informant. There is no allegation of specific nature against the applicants that it was them only, who physically assaulted the son of the first informant. The applicants are in custody since 16.08.2023 i.e., since last more than 2½ months and that he is having no criminal history. It is assured to the court that the applicant will cooperate in the trial and will abide by the conditions, if any, imposed by this court, therefore he may be released on bail.
6. The application for bail is opposed by learned A.G.A., however it is conceded that the applicants have no criminal history prior to this case and the applicants are in custody since last more than 3 months now.
7. I considered the nature of allegation, role ascribed to the applicant, evidence proposed to be produced, period of detention, absence of previous criminal history and all other facts and circumstances of the case. In my view, a case for bail is made out.

8. Let applicants - **Rakesh** and **Vikash** be released on bail in the aforesaid Case Crime Number on their furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicants shall not temper with evidence/witnesses.

(ii) The applicants shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicants shall remain present, in person, before the trial court on the dates fixed for (a) hearing/framing of charge and (b) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present and permanent address of the accused as well as sureties shall also be duly verified and the applicants shall submit undertaking that they shall not change their address without prior intimation to the court concerned.

9. Any violation of above conditions will be treated misuse of bail and learned Court below will be at liberty to pass appropriate order.

10. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

Order Date :- 24.11.2023

Vikram