

**Court No. - 16**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 14795 of 2023

**Applicant :-** Atal Bihari @ Atal Tiwari

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

**Counsel for Applicant :-** Chandra Shekhar Shukla

**Counsel for Opposite Party :-** G.A.

**Hon'ble Subhash Vidyarthi,J.**

1. Heard Sri Chandra Shekhar Shukla, learned counsel for the applicant as well as Sri Arpit Kumar, 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. 83 of 2023, under Sections 394 I.P.C., registered at Police Station- Itiyathok, District- Gonda.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 20.02.2023 against three persons, including the applicant, stating that the accused persons had robbed the informant's mobile phone, a silver necklace and Rs.10,500/- and while they were trying to run away, the informant raised an alarm whereupon some other persons reached there and a co-accused Mayankar Tiwari was caught on the spot. The other two persons escaped. The mobile phone and the silver necklace was recovered from the said co-accused person.

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. Further, it has been stated in the affidavit that a dispute had occurred between the parties regarding fair of e-rickshaw being driven by the informant and the applicant & the informant, both have received some injuries in the incident. Copy of injury reports of the informant and the applicant have been annexed with the affidavit.

5. The learned counsel for the applicant has submitted that co-accused Mayankar Tiwari, has already been granted bail by means of an order dated 01.11.2023 passed by this Court in Criminal Misc. Bail Application No.12825 of

2023.

6. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

7. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant has not been arrested on the spot and nothing has been recovered from there and the persons, who was arrested from whom recovery was made, has already been granted bail, coupled with the fact that the applicant has no previous criminal history and he is languishing in jail since 19.07.2023 and without making any observation, which may affect the merits of the case, I am of the view that the applicant is also entitled to be released on bail.

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

9. Let the applicant- **Atal Bihari @ Atal Tiwari** 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 :- 15.12.2023**

Preeti.