

**Court No. - 43**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 23466 of 2022

**Applicant :-** Vivek Yadav Alias Surya Prakash Yadav

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Bipin Kumar Tripathi

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

**Hon'ble Ajay Bhanot,J.**

By means of this bail application the applicant has prayed to be enlarged on bail in Case Crime No. 97 of 2022 at Police Station Chauri-Chaura, District Gorakhpur under Sections 147, 148, 149, 332, 333, 353, 307, 427, 336, 290, 291, 120-B, 188, 436 IPC and Section 7 Criminal Law Amendment Act and Section 3/4 Prevention of Damages to Public Property Act. The applicant is in jail since 14.04.2022.

The bail application of the applicant was rejected by learned Additional Sessions Judge, Gorakhpur, on 19.05.2022.

Sri Bipin Kumar Tripathi, learned counsel for the applicant contends that the applicant has been falsely implicated in the instant case. Dhananjay Yadav, a young serving soldier in the Indian Army had fallen in line of the duty. Disrespect was shown to the martyr by the civil administration. Number of citizens came out to protest against the callous attitude of the district administration and their failure to observe proper protocol to honour the

martyr. 56 named and 100 unknown persons were nominated as accused in the FIR. The FIR was lodged only to divert attention from the said failure of the district administration and to stifle the democratic dissent. The applicant has not been identified as the principal offender who inflicted any grievous injuries or caused any damage to public property. He was peacefully exercising his democratic rights to flag the high handed actions and apathy of the local administration. Prosecution evidence does not connect the applicant with the offence. The applicant is a young student with a bright future. Learned counsel for the applicant lastly submits that the applicant does not have any criminal history apart from this case.

Shri Sunil Kumar Srivastava, learned AGA for the State could not satisfactorily dispute the aforesaid submissions from the record. Learned AGA does not contest the fact that the applicant has no criminal history.

I see merit in the submissions of learned counsel for the applicant and accordingly hold that the applicant is entitled to be enlarged on bail.

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Vivek Yadav Alias Surya Prakash Yadav be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

(i) The applicant will not tamper with the evidence during the trial.

(ii) The applicant will not influence any witness.

(iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

In case of breach of any of the above condition, the prosecution shall be at liberty to move bail cancellation application before this Court.

Violence has no place in a democratic polity, and cannot be condoned under any circumstances. Non violence is the creed of democratic protests. Law will take its course against the accused who

resorted to violence. However before parting some facts were brought to the notice of the Court which deserve mention.

It is asserted that the mortal remains of the brave soldier who fell in the line of the duty were not received and treated with due State honours befitting a national hero. These are matters of fact which can be ascertained only after due enquiry. The State Government shall cause an enquiry to be conducted into the matter.

A nation that does not honour its martyrs who lay down their lives to protect freedom and preserve the peace, will forfeit its freedom and have no peace. India has known the cost of slavery, and Indians have never hesitated to pay the price of freedom. For the Republic to endure and liberty to survive martyrs have to be revered, and their deeds always remembered.

The solemn obligation of the State is to accord full honours to military heroes who make the ultimate sacrifice in defence of the country. Duty is cast on a grateful nation to ensure that the patriots do not go unwept, unhonoured and unsung.

The State in consultation with the highest military authorities shall consider framing of a code or

regulations laying down the protocol for receiving and bearing the carriage of mortal remains of soldiers martyred in the line of duty, for the funeral rites and any other allied matters . The exercise is liable to be completed within a period of six months.

Copy of this order shall be communicated to the Chief Secretary, State of U.P. through Government Advocate for necessary compliance.

**Order Date :- 9.6.2022**

Pravin