

Court No. - 76

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32049 of 2023

Applicant :- Charchil Bharti

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Srivastava

Counsel for Opposite Party :- G.A.,Awashesh Kumar,Kalp Dev Mishra

Hon'ble Vikram D. Chauhan,J.

1. Heard learned counsel for the applicant, learned AGA for the State and perused the record.

2. It is submitted by the learned counsel for the applicant that as per allegations made in the FIR, it is alleged that the applicant has fired on the injured, as a result of which the injured suffered injuries. Learned counsel for the applicant has drawn attention of the Court towards page-20 of the paper book to submit that the gun shot injury has been found on the back of the chest of the injured, however, he submits that the injuries were not fatal in nature. Learned counsel for the applicant further submits that the injured had taken away the vehicle of the applicant and in this respect a first information report was lodged on 03.01.2023 through application moved under Section 156(3) Cr.P.C. which is annexed at page-26 of the paper book. Learned counsel further drawn the attention of the Court that the application under Section 156(3) Cr.P.C. was proceeded with in pursuance of the order of this Court dated 15.05.2023.

3. Learned counsel for the applicant further submits that in fact the injured was apprehended along with vehicle and when he was taken to the police station, the case has been lodged against the applicant. Learned counsel for the applicant submits that the injuries are not on vital part of the body and is on the back of the chest and as such no offence under Section 307 of IPC is made out against the applicant. It is further submitted that the previous criminal history of the applicant has been explained in para-11 of the affidavit.

4. Learned AGA opposed the bail application and submits that there is a fracture of rib on account of the fire made by the

applicant. The injured has supported the prosecution case. He further submits that prior to the present case the applicant has issued two cheques to the injured which have been dishonoured. Learned AGA further submits that as per the statement of the Doctor the injuries were grievous in nature.

5. Learned counsel for the applicant submits that even if the injuries are grievous, the case would not travel beyond Section 324 of the IPC and no offence under Section 307 of IPC is made out.

6. It is to be seen that in the present case, as per prosecution case, the applicant is alleged to have fired on the injured and as a result of which, the injured suffered firearm injuries and as per injury report, the injury is at the back of the chest. The Doctor, who has medically examined to the injured has stated that there is fracture in rib and the injuries are grievous in nature. The injuries were caused from the firearm weapon, which is on the chest i.e. vital part of the body, then the aforesaid act of the applicant goes to show that he has intention to commit the culpable homicide. The stand of the applicant that the vehicle was taken away by the injured and the applicant caught the injured and taken to the police station, where the applicant has been falsely implicated, does not stand substantiated.

7. In view of above, facts and circumstances of the case, the present bail application lacks merit and is hereby ***rejected***.

Order Date :- 7.11.2023

Prajapati