

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 33607 of 2023

Applicant :- Gurjeet Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Gaurav Kakkar

Counsel for Opposite Party :- G.A.,Manoj Kumar Tripathi,Vinod Kumar Tirpathi

Hon'ble Krishan Pahal,J.

1. List has been revised. Learned counsel for informant is not present.
2. Heard Sri Gaurav Kakkar, learned counsel for the applicant and Sri Varun Pratap Singh, learned A.G.A. for the State and perused the record.
3. Applicant seeks bail in Case Crime No. 45 of 2023, under Sections 307, 504 of I.P.C & 3/25 Arms Act, Police Station Rehad, District Bijnor, during the pendency of trial.
4. As per prosecution story, applicant and injured person are said to have entered into altercation before the date of incident, as such owing to old enmity and business dispute. Applicant on the exhortation of co-accused Ravindra Singh is said to have fired at injured person Gurdeep Singh on 23.05.2023 at about 7:30 p.m. when he was passing from the house of the applicant in his car, thereby causing gunshot injuries to him. The injured person was rushed to CHC, Afzalgaadh and admitted there whereby his condition deteriorated, as such was sent to higher center for treatment.
5. Learned counsel for the applicant has stated that FIR is delay by 22 hours and there is no explanation of the said delay. Learned counsel has further stated that injuries sustained by the injured person were three in all and Doctor has stated in supplementary report that the said injuries were simple in nature. It is further stated that injury report categorically indicates tattooing and blackening and Injury no. 1 to 3 are simple in nature. Learned counsel has stated that taking into consideration the prosecution story, tattooing and blackening cannot be present on the injured as

he was traveling in a car even glasses of the window has been shattered. Learned counsel has further stated that the said injuries have been manufactured as no fracture was observed by the Doctor. Only radio opaque shadow of metallic density were seen at the back chest and shoulder region and back of head and upper neck. Learned counsel has stated that country made pistol and one cartridge 12 bore have been recovered from the possession of applicant. Learned counsel has stated that as per prosecution story applicant had fired from the country made pistol, there is no possibility of firing three shots from it as country made pistol of 12 bore could fire one shot at a time. Applicant has no criminal history.

6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. There is no criminal history of the applicant. The applicant is languishing in jail since 11.06.2023 . In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Per contra, learned A.G.A. has vehemently opposed the bail application and stated that country made pistol has been recovered on the pointing out of the applicant and injuries sustained are serious in nature. Delay of FIR has been explained by the fact that informant rushed the injured for treatment as priority was to get him treated, not lodging the FIR. Learned A.G.A. has also stated that memo of car was also prepared by the Investigating Officer and the window pane of front on the right side of the car, was found shattered. Statement of the injured person corroborated the prosecution story.

8. After hearing learned counsel for both the parties and taking into consideration the fact that the blackening and tattooing was observed by the Doctor conducting medical examination of the injured person on 23.05.2023 at about 8:35 p.m. as such injuries in the opinion of doctor were of simple in nature coupled with the fact that FIR is delayed, I find that it is fit case for bail. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, pending trial and considering the complicity of accused, severity of punishment, at this stage, without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is **allowed**.

9. Let the applicant- **Gurjeet Singh** involved in aforementioned

case crime number be released on bail on furnishing a personal bond and two heavy sureties each in the like amount to the satisfaction of the court concerned subject to following conditions.

- i. The applicant will not tamper with the evidence during the trial.
 - ii. The applicant will not pressurize/ intimidate the prosecution witness.
 - iii. The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.
 - iv. The applicant shall not indulge in any criminal activity or commission of any crime after being released on bail.
 - v. The applicant shall not directly or indirectly make any 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 or to any police officer or tamper with the evidence.
10. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.
11. Identity, status and residence proof of the applicant and sureties be verified by the court concerned before the bonds are accepted.
12. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion on the testimony of the witnesses.

(Justice Krishan Pahal)

Order Date :- 27.10.2023

Sharad/-