

**Court No. - 75**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 37391 of 2023

**Applicant :-** Manoj Singh

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

**Counsel for Applicant :-** Ankit Agarwal, Subham

**Counsel for Opposite Party :-** G.A., Rohit Shukla, Ronak Chaturvedi

With

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 37858 of 2023

**Applicant :-** Saurabh Singh

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

**Counsel for Applicant :-** Ankit Agarwal, Subham

**Counsel for Opposite Party :-** G.A., Rohit Shukla, Ronak Chaturvedi

With

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 37689 of 2023

**Applicant :-** Vikram Singh

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

**Counsel for Applicant :-** Ankit Agarwal, Subham

**Counsel for Opposite Party :-** G.A., Rohit Shukla, Ronak Chaturvedi

**Hon'ble Umesh Chandra Sharma, J.**

1. Counter affidavit filed by Sri Ronak Chaturvedi, learned counsel for the informant in Crl. Misc. Bail Application No. 37391 of 2023 and Crl. Misc. Bail Application No. 37858 of 2023, are taken on record. He states that there is no need to file separate counter affidavit in other bail application.

2. Rejoinder affidavit filed today by Sri Ankit Agarwal, learned

counsel for the applicants is also taken on record. He states that there is no need to file separate rejoinder affidavits in other applications.

3. Since these three bail applications have arisen out same crime number and are also connected applications, hence, are being decided by this common order. Copy of which be placed on the connected bail application.

4. Heard Sri V.P. Srivastava, learned Senior Counsel, assisted by Sri Ankit Agarwal, learned counsel for the applicants, Sri Rohit Shukla, learned counsel for the informant as well as Sri Mithilesh Kumar, learned A.G.A. for the State and have gone through the materials placed on the record by the parties.

5. As per the prosecution, on 17.6.2023 at about 11:45 p.m. an F.I.R. was lodged by the informant against six accused persons including the applicants alleging therein that at about 7:00 p.m. in the evening when his younger brother went to his field, the accused persons who were already present there and armed with stick and spade, started abusing the brother of the informant and when he opposed their abusive language the accused persons with intention to kill, assaulted him brutally by the aforesaid weapons whereby his brother sustained grievous injuries. On being informed, when the informant along with his son was on the way to the spot, the accused persons also assaulted them, however, anyhow they reached on the spot and took the injured, Ramveer, to a private hospital in a very critical condition.

6. Learned Senior Counsel has contended that the applicants have been falsely implicated in this case due to enmity. No specific role has been assigned to any of the applicants and general and vague role have been assigned to all the accused persons. As a matter of fact it was a free fight in spur of moment where persons from both the sides have sustained injuries and as such at this stage it can not be ascertained as to which party was the aggressor and which party has acted in private defence. It is further contended that it is a matter of trial to record finding on the altercation after thorough appreciation of evidences of the parties. It is next contended that after the incident, the present applicants at their own will went to the police station and narrated the story, however, their F.I.R. has not been lodged by the police and an application under Section 156(3) Cr.P.C. has been moved by the applicants. It is next contended that in the incident the applicant nos. 2 & 3 have sustained injuries and it is the duty of the prosecution to explain their injuries. Several other factual and legal aspects have been

raised by the learned Senior Counsel and in support of arguments, reliance has been placed on a Supreme Court Judgement in ***Lakshmi Singh and Others Vs. State of Bihar (1976) 4 SCC 394.***

7. It is lastly contended that the applicants are in jail since 18.6.2023 and in case they are released on bail, they will not misuse the liberty.

8. On the other hand learned counsel for the informant, has vehemently opposed the prayer for bail and submitted that in the incident, the injured Ramveer Singh was mercilessly assaulted by the applicants which resulted in depressed fracture of right parietal bone, fracture of right occipital bone and fracture of squamous part of right temporal bone with midline shift of 4 mm towards right due to which he was operated on head and leg tibia fracture and he remained in I.C.U. for seven days and remained on oxygen support for 10 more days and as per the opinion of the treating doctor, the injuries were dangerous to life. It is next contended that apart from the injured Ramveer, Ramu and Sachin also received injuries in the incident.

9. From the perusal of records, it transpires that a prompt and named F.I.R. has been lodged against the six accused persons including the applicants stating therein that on account of old enmity accused persons armed with sticks and spades with intention to kill the brother of the informant namely Ramveer assaulted him when he reached on the spot due to which the Ramveer got severely injured. Seeing Vishnu and Chandrapal coming towards them, they left the injured knowing him to be dead. By that time the informant, his son Sachin and his nephew Jwaha who were going on the spot, the accused persons also beaten them, however, they escaped and reached on the spot and found the condition of Ramveer very critical. Ramveer was taken to City Hospital by a private vehicle where he was reported to in a very serious condition.

10. Since the identity of the accused persons, weapon used in commission of crime, date, time and place of occurrence has been prima facie established, therefore, it would be appropriate to look into the injuries of the injured. The injured Ramveer received three injuries i.e. (i) depressed fracture of right parietal bone (ii) fracture of right occipital bone and (iii) fracture of squamous part of right temporal bone with midline shift of 4 mm towards right. All the injuries were grievous in nature and as per the report of the neurosurgeon, the injuries were dangerous to life. The injured Ramveer was admitted on 17.6.2023 and was discharged from the

hospital on 12.7.2023. At the time of admission blood was oozing from the left ear and he was entubated and kept on medical support. Two operations one for the head injury and another for fracture of left side tibia and fibula.

11. In addition to the injuries of injured, Ramveer, Ramu and Sachin have also received injuries. The informant Ramu have received three injuries and Sachin has received 7 injuries. As per the opinion of the doctor, the injuries were caused by sharp and blunt object. The ulna bone of the informant was also found fractured.

12. Learned Senior Counsel argued that the applicants have also received injuries and no explanation has been given by the prosecution. The accused Saurabh and Vikram have received 2 and 4 simple injuries when they were alleged to have been examined on 18.6.2023. These injuries are such as abrasion, contusion and complaint of pain and one lacerated wound. In this regard learned Senior Counsel has relied on the **Lakshmi Singh and Others Vs. State of Bihar(Supra)** wherein the Apex Court relying on its previous judgement in Mohar Rai Vs. State of Bihar, (1968)8 SCR 535, observed that since three injuries such as bruise, incised and punctured were found and was not explained by the prosecution even during the trial and even after the conclusion of the trial, the benefit of doubt was given to the accused.

13. Learned A.G.A. contended that at this stage no burden can be shifted upon the prosecution to explain such injuries. Since the injuries are simple in nature, there is no need to explain the same. There is also no need to explain the injuries of the accused if it is caused in exercise of the power of private defence. He relied on **B.N.Sharma Vs. State of Assam, (1977) 4 SCC 396** in which it has been held that 'the prosecution is not obliged to explain the injuries on the person of the accused in all cases and in all circumstances. It depends upon the facts and circumstances of each case whether the prosecution case becomes reasonably doubtful for its failure to explain the injuries of the accused. He has further relied on **Jagdish Vs. State of Rajasthan (1979) 3 SCR 428**, wherein it has been held that the injuries on the person of the accused must be very serious and severe and not superficial and that these injuries must have been caused at the time of the occurrence in question which is yet to be established during the trial.

14. In this case the prosecution has explained the injuries of the accused persons in para 16 of their counter affidavit that the

injuries of accused Vikram and Saurabh are simple injuries who were examined on 18.6.2023 and as such these injuries manufactured and do not relate to the incident dated 17.6.2023 wherein the injured Ramveer, Sachin and the informant have sustained the injuries. It is further pointed out that the application under Section 156(3) Cr.P.C. has been moved after consultation with legal brain. The alleged weapons used in commission of crime have been recovered on the pointing of the accused. It is also contended that three accused persons are absconding and threatening the informant of dire consequence if the informant and the injured do not compromise the case. In this regard, the informant has sent a letter to the C.J.M. Mathura to monitor and investigate the case.

15. Three accused persons are still absconding and if these accused persons are released they would definitely tamper with the evidence and will evade the process of law.

16. Considering the overall facts and circumstances of the case as noted herein above, without commenting anything on the merits of the case, in the opinion of this Court, the applicants are not entitled to be released on bail.

17. Accordingly, the bail applications are **rejected**.

**Order Date :- 13.10.2023**

S.Verma