

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39059 of 2023

Applicant :- Afaq Ahmad And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Ambreen Masroor, Sadrul Islam Jafri, Sr. Advocate

Counsel for Opposite Party :- G.A., Uma Nath Pandey

Hon'ble Pankaj Bhatia, J.

1. Heard Shri N.I. Zafri, learned Senior Advocate for the applicants, learned AGA for the State and Shri Sanjay Singh, Advocate on behalf of the informant who has filed his Vakalantama in Court today, which is taken on record. Perused the record.

2. The FIR in question was lodged alleging that on 25.06.2023 at about 09:15 AM when the informant was going from his house to his clinic, 10 persons attacked him with lathi, danda and sharp instruments, which led to head injury on the informant. Learned counsel for the applicants draws my attention to the medical report as well as the statement of the victim which makes general allegations against all the 8 to 10 persons without there being any specific allegation against the applicants. He also draws my attention to the medical report on record which indicates ten injuries on the body of the informant. In the light of the said, he argues that none of the injuries except injury nos.1 & 2 can be said to be on a vital part of the body. Even the injury nos.1 & 2 have two stitches wound which cannot be termed as vital.

3. It is further argued that applicant no.1 has criminal history of two cases as disclosed in Para - 27 of the bail application being Case Crime No.18 of 2020 under Sections 323, 504, 506, 427 IPC and case under Section 107/116 Cr.P.C. As regards the applicant no.2, it is stated that he has no criminal history except for a case under Section 107/116 Cr.P.C.

4. In the light of the said, it is argued that there is no threat or apprehension of the prosecution getting affected as the charge-sheet has already been filed and thus, the applicant should be enlarged on bail.

5. Shri Sanjay Singh, learned counsel appearing for the complainant argues that out of the ten injuries referred to by the medical board, seven are grievous in nature and thus, the applicant

should be enlarged on bail. As regards the criminal antecedent, he does not dispute the criminal antecedent as disclosed by the applicant in Para - 27 & 28 in respect of applicant nos.1 & 2 respectively.

6. Learned AGA has opposed the bail application.

7. Considering the allegations and the arguments raised at the Bar, *prima-facie*, general allegations were levelled against all 10 persons named in the FIR. In the statement of the informant, no specific role was assigned to the applicants herein; the nature of injuries, although grievous, cannot be said to be on a vital part except injury nos.1 & 2, which are also stitches wound on the skull; in the X-Ray report also, no fracture was found on the skull, as such, in view of the fact that the applicants have no substantial criminal antecedent and the charge-sheet has been filed, *prima-facie*, there is no material to form a view that the applicants, if enlarged on bail, can adversely affect the trial, thus, the applicants are entitled to be enlarged on bail. In view thereof, the application is **allowed**.

8. Let the applicants **Afaq Ahmad** and **Mohammad Zaki** be released on bail in FIR No.234 of 2023, under Section 147, 148, 149, 323, 325, 307 IPC, P.S. Shikarpur, District Bulandshahar on their furnishing a personal bond each with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

(a) The applicants shall execute a bond to undertake to attend the hearings;

(b) The applicants shall not commit any offence similar to the offence of which they are accused or suspected of the commission; and

(c) The applicants 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.

Order Date :- 1.11.2023

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