

Court No. - 74

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 38664 of 2023

Applicant :- Chhiddu @ Natthu Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shyam Lal, Abhilasha Singh, Ashutosh Yadav

Counsel for Opposite Party :- G.A., Bharat Singh, Deepak Dubey

Hon'ble Vivek Varma, J.

1. Second supplementary affidavit filed by the counsel for the applicant, is taken on record.
2. Heard learned counsel for the applicant, Sri Bharat Singh, learned counsel for the informant and learned AGA for the State.
3. The instant bail application, under Section 439 Cr.P.C., has been filed with a prayer to enlarge the applicant on bail in Case Crime No.109 of 2022, under Sections 452, 323, 307, 506 IPC, Police Station Rajpura, District Sambhal, during the pendency of the trial.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the instant case. The incident is alleged to have occurred on 04.03.2022 and the first information report was lodged on 01.04.2022. The delay in the facts of the present case is fatal to the prosecution case. In the first information report, four persons including the applicant are nominated. As per the FIR, the applicant is alleged to have caused injury to the two injured namely Bhupendra and Bhagwan by *lathi*. The injured Bhupendra was examined by doctor on 04.03.2022 at a Govt. Hospital, Sambhal. At the initial stage the doctor found six injuries. In the opinion of the doctor, the said injuries were caused by a blunt and hard object. The said medical report was cancelled. A copy of the same is annexed as SA-1 to the first supplementary affidavit. Thereafter, again a medical report was prepared by the same doctor. In the said medical report, the doctor found that Bhupendra sustained four injuries. According to him, the injury no.1 was a fire arm injury and rest of the injuries were on non vital part of the body and are caused by a hard and blunt object. Thereafter, the injured Bhuendra was examined at Dr. Ram Manohar Lohia Hospital, New Delhi. As per the discharge slip the injury no.1 on the head was a bullet injury. Yet again a Medical Board was constituted. As per the report of Medical Board dated 5.5.2022, "(01) an old healed curved scar mark of

15.0 cm. on right side skull 03.0 cm above upper border of right ear and extending to mid of skull 10.5 cm. above root of nose. scar mark is healthy; (02) on examination of left upper limb cock up splint is present on left forearm and hand. On removal of cockup splint, wrist drop present no visible external injury seen." It is contended that in view of three medical reports, there is no clarity with regard to the injury sustained by the injured. Insofar as another injured Bhagwan Singh is concerned, he received five injuries. Injury no.1 on the head was kept under observation, the other injuries were found simple in nature. The said injury no.1 was referred for X-ray examination. As per the supplementary medical report dated 4.3.2022 no abnormality was seen. It is contended that nature of injuries shows that there was no intent to kill. It is next contended that co-accused Kunwar Pal has been granted bail by this Court in Criminal Misc. Bail Application No. 41870 of 2023 vide order dated 16.10.2023. Insofar as criminal history of the applicant is concerned, it has been asserted in para 3 of the second supplementary affidavit that the applicant was convicted by the Additional District & Sessions Judge in S.T. No. 1010 of 2012, arising out of Case Crime No. 582 of 2008, under Section 307/34 IPC, P.S. Rajpura, District Budaun. Against the order of conviction and sentence, the applicant preferred a Criminal Appeal No. 2964 of 2017 (Chhidu @ Natthu Singh Vs. State of U.P.). During the pendency of the said appeal, the applicant has been granted bail. The applicant is in jail since 30.06.2023 and in case he is enlarged on bail, he will not misuse the said liberty.

5. Learned A.G.A. and learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid facts from the record.

6. Having heard learned counsel for the parties and having perused the record this Court prima facie finds that in view of three medical reports, there is no clarity with regard to the injury sustained by the injured Bhupendra. Further, the injuries sustained by the another injured Bhagwan are also simple in nature. The co-accused Kunwar Pal has been granted bail by this Court. Further, the applicant has remained confined for more than three months and after submission of the charge-sheet there is no hope of early conclusion of trial, more so when no reasonable apprehension has been brought to the fore by the State that the applicant, if enlarged on bail, would either tamper with the evidence or delay the trial or intimidate the witness, without commenting on merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

7. Let the applicant-**Chhidu @ Natthu Singh**, involved in the

aforesaid case be released on bail on his furnishing a personal bond and two sureties each of the like amount to the satisfaction of court concerned on the following conditions that:

- i. the applicant shall not temper with the prosecution evidence;
- ii. the applicant shall not pressurize the prosecution witness;
and,
- iii. the applicant shall appear on each and every date fixed by the trial court.

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

Order Date :- 18.10.2023

Lbm/-