

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41169 of 2023

Applicant :- Saurabh

Opposite Party :- State of U.P.

Counsel for Applicant :- Shahnawaz Akhtar

Counsel for Opposite Party :- G.A.,Dhan Pal

Hon'ble Umesh Chandra Sharma,J.

1. Heard learned counsel for the applicant, learned counsel for the informant as well as learned A.G.A. for the State and perused the records.
2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Complaint Case No.3065 of 2023, under Sections 307, 504 I.P.C., Police Station-Ujhani, District-Budaun, during pendency of the trial.
3. Counsel for the applicant submits that the applicant has been falsely implicated in the instant case. Applicant is the younger brother of co-accused Gaurav. The informant has been arrayed as an accused u/s 364A and 302 IPC in which he has been acquitted by the trial court, recently. When the I.O. did not find any case against the applicant, he submitted final report on 26.7.2010 against that a protest petition was filed by the informant on 5.2.2011, which was treated as complaint case and after recording of the statement u/s 200 and 202 Cr.P.C., the applicant is summoned u/s 307 and 504 IPC. He further contended that considering the abnormal facts of the case, further proceeding of the trial was also stayed by the High Court in Criminal Misc.Application No.25463 of 2012, Udaiveer and another vs. State of U.P. and another, on 11.9.2012 though the stay order was vacated in view of the judgment of the ***Hon'ble Apex Court passed in the case of Asian Resurfacing of Road Agency vs. C.B.I.*** reported in ***Criminal Appeal No.1375-1376 of 2013***. He further submits that according to the applicant, the accused had fired from the back of the injured but no firearm injury on the back of the injured has been found.
4. In this regard, learned AGA is of the view that injury no.2 is on the back portion of the body of the injured.
5. Counsel for the applicant submit that so far as the nature of injuries are concerned though it may be argued that it is on the vital part of the body but the same is not grievous and dangerous on the vital part of the body. The doctor concerned has noted it to be simple in nature. It is lastly contended that the applicant is in jail since 11.08.2023, having no criminal antecedent to his credit, in case, he is enlarged on bail, he will not misuse the said liberty.
6. Per contra, learned counsel for the informant as well as learned A.G.A. have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

7. Having regard to the submissions made above and the fact that the applicant has remained confined for three months and after submission of the final report 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 the merits of the case, I am of the opinion that the applicant is entitled to be enlarged on bail.

8. Let the applicant, Saurabh, 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:

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i. the applicant shall not temper with the prosecution evidence;

ii. the applicant shall not pressurize the prosecution witness;

iii. the applicant shall appear on each and every date fixed by the trial court.

9. 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 :- 9.11.2023

m.a.