

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 41784 of 2023

Applicant :- Jeet Jaiswal @ Matan

Opposite Party :- State of U.P.

Counsel for Applicant :- Dhiraj Kumar Pandey

Counsel for Opposite Party :- G.A., Pankaj Roy

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Dhiraj Kumar Pandey, learned counsel for the applicant who has filed supplementary affidavit which is taken on record, learned AGA for the State, Sri Pankaj Roy, learned counsel for the informant and perused the record.

2. The instant bail application has been filed with a prayer to enlarge **the applicants on bail in Case Crime No.75 of 2023, under Sections 147, 307, 323, 506 IPC, Police Station Chetganj, District Varanasi**, during the pendency of trial.

3. Learned counsel for the applicants submits that the role of firing has been assigned to co-accused, Prince who has been enlarged on bail by a co-ordinate Bench of this Court vide order dated 28.10.2023 passed in Criminal Misc. Bail Application No.41046 of 2023. He further contends that as per statement of Dr. AK Mani, the injury on the ear of the injured, Shahidun Nisha had been caused by blunt object and it was not a firearm injury. He pointed out the statement of the injured, Shahidun Nisha who has stated that when she intervened to settle the dispute, she was pushed due to which she received injury on her left ear. Though she has also stated that thereafter the country-made pistol was taken by the applicant, Jeet Jaiswal @ Matan who fired upon the injured in which she survived anyhow. It is further contended that the injuries sustained by the injured are simple in nature. There is criminal history of four cases against the applicant which has been explained in paragraph-2 of the supplementary affidavit in which the accused has been enlarged on bail. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 04.08.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

4. Learned AGA and learned counsel for the informant have

opposed the prayer for bail. Learned counsel for the informant contends that the injury is not necessary for formation of an offence under Section 307 IPC, mere intention and attempt to kill the victim is sufficient to form an offence under Section 307 IPC.

5. Having regard to the fact that no firearm injury shot by the applicant has occurred to the injured and the criminal history has properly been explained and the period of incarceration but without commenting on merits of the case, this Court is of opinion that the applicant is entitled to be enlarged on bail. Accordingly, the bail application is allowed.

6. Let the applicant - **Jeet Jaiswal @ Matan**, involved in the aforesaid case be released on bail on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to the conditions that he:

- (i) shall appear on the date fixed by the trial court;
- (ii) shall not tamper with the prosecution evidence;
- (iii) shall not pressurize the prosecution witnesses.

7. 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 :- 1.11.2023
Shahroz