

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43452 of 2023

Applicant :- Surendra Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Niraj Tiwari, Mahendra Kumar

Counsel for Opposite Party :- G.A., Pran Vallabh Prakash

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Niraj Tiwari, learned counsel for the applicant, learned AGA for the State and perused the record.

3. Counter affidavit has been filed by one Sri PS Pundir, advocate. However, the complainant, Shailendra Kumar Sharma has himself argued the case.

3. By means of the instant bail application the applicant seeks bail in Case Crime No.Nil, Complaint Case No.54 of 2018, Special Sessions Trial No.54B of 2018 (State Vs. Surendra Singh) arising out of Special Sessions Trial No.54 of 2018 (Shailendra Kumar Sharma Vs. Anil Bhadauriya), under Sections 323, 392, 504 IPC, Police Station Kotwali Fatehgarh, District Farrukhabad, during the pendency of the trial.

4. The facts of the case are that on 10.01.2018 at about 09:00 p.m. when Dayanand Katiyar, Abhinav Katiyar and Asha Katiyar were going to complain against Shailendra Singh @ Bade Thakur about the marpeet and firing with the intention to kill him at police chauki Colonal Ganj, chauki incharge Anil Bhadoria called the complainant at the Police Station Kotwali Fatehgarh. As soon as he reached there with Shailendra Singh and Amit Tiwari, the aforesaid SI, Anil Bhadoriya started abusing and pressurizing him to compromise with Dayanand Katiyar and when he denied the same, SI Anil Bhadoriya and constable Surendra Singh and Navnit Yadav beaten him by

lathi, stick and wooden plank and caused injury to the complainant and his friends and also cut his hair braid forcefully. They also snatched golden ring and took away Rs.2,000/- and ATM card from his pocket; confined him in lockup; damaged three mobile phones. The matter was reported to the ADSP, Farrukhabad on 11.01.2018 but no action was taken thereafter a complaint has been filed.

5. According to the applicant, he has falsely been implicated. No such incident has taken place with the complainant. Virtually the complainant was pressurizing to file final report in FIR No.20 of 2018, under Sections 307, 323, 504 and 506 IPC in which the charge-sheet has already been submitted on 25.04.2018. In other FIR Nos.21 of 2018, 22 of 2018 and 23 of 2018 the charge-sheets have already been submitted to the court of CJM on 31.01.2018 which are pending and in which till now the complainant and the witnesses have not been enlarged on bail. Only to mount pressure the said complaint has been instituted in which complainant's friends have been examined as PWs-1 and 2. The complainant's friend Shailendra Singh Gautam, PW-1 had also filed an application being Misc. Application No.108/11 of 2018 about the incident dated 10.01.2018 against SI, Anil Bhadoriya and others in the Court of CJM, Farrukhabad which was not pressed by him and an affidavit was also submitted on which basis the application under Section 156(3) CrPC was rejected on 24.05.2018. Complainant, Shailendra Kumar Sharma and Shailendra Singh @ Bade Thakur are advocates; PW-2, Amit Tiwari is his friend. The accused was ill and under the treatment in UHM Hospital, Kanpur. The applicant is a public servant who cannot be summoned without prior permission of the appointing authority. At the time of incident he was posted in Reserve Police Line, Fatehgarh and has no previous criminal antecedents to his

credit.

6. Learned counsel for the applicant contended that the complainant was made accused in Case Crime No.20 of 2018, under Sections 307, 323, 504 and 506 IPC, Police Station Fatehgarh Kotwali, District Farrukhabad in which charge-sheet has been submitted and another case at Crime No.23 of 2023 has also been lodged against the complainant under Section 3/25 Arms Act. There is also criminal history against the complainant at Case Crime No.355 of 2017, under Sections 504, 452, 323, 376, 511 and 506 IPC, Police Station Bharthana, District Etawah in which proceeding under Sections 82 and 83 CrPC is going on. Learned counsel for the applicant further contended that the complainant mounted pressure upon the investigating officer for filing final report in favour of the complainant in Case Crime No.20 of 2018 and when he did not agree for the same, the alleged afterthought and false complaint has been filed against the accused under Sections 323, 392 and 504 IPC, Police Station Kotwali Fatehgarh, District Farrukhabad in which the bail application was rejected by the Special Judge (Dacoity Affected Area), Farrukhabad on 19.09.2023. It is further contended that there is no grievous injury on the person of the complainant. There is no previous criminal antecedents to the credit of the applicant. There is no likelihood of his abscondence or tampering with the evidence. The applicant is in jail since 31.08.2023. In case the applicant is enlarged on bail, he will not misuse the said liberty.

7. The complainant alongwith the learned AGA has vehemently opposed the bail application and argued that accused has cut the hair braid of the complainant forcefully and beaten him badly by lathi, stick and wooden plank in which he has sustained several injuries.

8. Considering the facts, circumstances and the submissions made by the rival parties but without commenting on the merits of the case, this Court is of opinion that the applicant has made out a fit case for bail. Accordingly, the bail application is allowed.

9. Let the applicant - **Surendra Singh**, involved in the aforesaid case crime 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.

10. 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 :- 1.12.2023

Shahroz