

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44877 of 2023

Applicant :- Shoeb Khan @ Yahya

Opposite Party :- State of U.P.

Counsel for Applicant :- Ali Bin Saif, Aditya Bhushan Singhal

Counsel for Opposite Party :- G.A., Balbir Yadav

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicant, learned AGA, Shri Balbir Yadav, learned counsel for the informant and perused the record.

2. The FIR in question was lodged alleging that as many as 10 persons attacked the informant. The role of firing was assigned to one Ritik, Mayank, Saklain and the present applicant. It was alleged that the informant had sustained severe injuries on account of the said gunshot fired by the said four persons and other injuries were also sustained which are attributed to the other co-accused.

3. Learned counsel for the applicant argues that on the basis of the medical report on record, the injuries were caused on the foot which cannot be termed as a vital part. He further argues that one of the co-accused who was assigned the similar role namely Mayank Raghav has been enlarged on bail by this Court vide order dated 01.05.2023 (Annexure - 8). As regards the criminal antecedent, the same has been explained in Para - 23 of the bail application that in one of the cases being Case Crime No.186 of 2020, the applicant has been granted bail and in other two cases, the offences are bailable. In the light of the said, he argues that the applicant should be enlarged on bail.

4. Learned counsel for the informant, on the other hand, argues that the bail orders of the two cases of the criminal antecedent have not been annexed along with the bail application and thus, the bail application should be rejected.

5. Learned AGA has opposed the bail application.

6. Considering the fact that the injuries sustained in the incident are on foot which cannot be termed as injury on a vital part coupled with the fact that the other co-accused namely Mayank Raghav against whom similar allegations were levelled has been enlarged on bail and in the other two cases of criminal antecedent,

the offences are minor which are bailable, the applicant who is in custody since 20.09.2023 is entitled to be enlarged on bail. In view thereof, the application is **allowed**.

7. Let the applicant **Shoeb Khan @ Yahya** be released on bail in FIR No.398 of 2022, under Section 147, 148, 149, 323, 341, 307 & 120B IPC, P.S. Civil Lines, District Aligarh on his furnishing a personal bond with two sureties of Rs.25,000/- each to the satisfaction of court concerned with the following conditions:

- (a) The applicant shall execute a bond to undertake to attend the hearings;
- (b) The applicant shall not commit any offence similar to the offence of which he is accused or suspected of the commission; and
- (c) The applicant 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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