

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45796 of 2023

Applicant :- Faisal

Opposite Party :- State of U.P.

Counsel for Applicant :- Vivek Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. The instant bail application has been nominated to this Bench by Hon'ble the Acting Chief Justice vide order dated 22.11.2023 and, therefore, the case is listed today before this Bench.

2. Heard Sri Vivek Singh, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.

3. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.0398 of 2022, under Sections 147,148,452,307, 506 and 352 IPC, Police Station Brahampuri, District Meerut during pendency of the trial.

4. FIR of the present case was lodged on 17.11.2022 against the applicant and 8 nominated accused persons and 2-3 unknown persons and according to the FIR, applicant and other co-accused persons entered in the house of the informant and made assault through iron rods upon the father of the informant. It is further mentioned in the FIR that co-accused Abid opened fire upon the informant but he anyhow survived. It is further mentioned in the FIR that due to assault made by applicant and other co-accused persons the father of the informant sustained injury on his head.

5. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and due to

previous enmity applicant has been made accused in the present matter along with as many as 8 named accused persons.

6. He further submits that however in the FIR informant assigned general role to all the accused persons but when the statement of the injured was recorded then he stated that applicant and co-accused Abid caused injury upon him through wooden sticks and iron rods.

7. He further submits that injury report of the injured suggests that he sustained two injuries and injury no.1 was on his head and another one was on his left ankle.

8. He further submits that he could not obtain the supplementary report of the injured and the same may be produced by learned AGA.

9. He further submits that co-accused Abid has already been released on bail by this Court vide order dated 2.3.2023 passed in Criminal Misc.Bail Application No.3271 of 2023.

10. He further submits that applicant is although having criminal history of two cases but his criminal history has been explained in the affidavit filed in support of the instant bail application. and in the present matter he is in jail since 20.12.2022, i.e, for the last more than 11 months.

11. Per contra, learned AGA although opposed the prayer for bail but he fairly conceded that as per supplementary report of the injured his injury was not dangerous to life. He further could not dispute the fact that co-accused Abid has already been released on bail.

12. I have heard learned counsel for the parties and perused the record of the case.

13. However, as per the statement of injured, applicant along with co-accused Abid caused injury to him through wooden sticks and iron rods but from the perusal of the supplementary report of the victim which was produced by the learned AGA during the course of argument it appears that injury was not dangerous to life.

14. Further, however applicant is also having criminal history of two other cases but his criminal history has been explained in the affidavit filed in support of the instant bail application and he is in jail since December, 2022, i.e., for the last more than 11 months and co-accused Abid has already been released on bail.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

16. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **allowed**.

17. Let the applicant-**Faisal** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make 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 any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

18. In case of breach of any of the above condition, the

prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

19. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 28.11.2023

SKM