

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46878 of 2023

Applicant :- Roopam Sharma

Opposite Party :- State of U.P.

Counsel for Applicant :- Vinod Singh

Counsel for Opposite Party :- G.A.,Amitabh Tripathi

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant, learned AGA for the State; and Shri Amitabh Tripathi, learned counsel for the informant and perused the record.

2. The FIR in question was lodged on 28.08.2023 at about 7:34 PM alleging that on the same day at about 8 AM in the morning, the son of the informant was going to his home when two persons named in the FIR including the applicant, fired which resulted in gunshot injury on the right shoulder of the body of the victim. Based upon the said FIR, the applicant was apprehended and is being tried for an offence under Section 307 IPC.

3. Learned counsel for the applicant argues that in terms of the medical report contained at Page - 21, the injury is shown on the right shoulder which cannot be said to be a vital part. It is further argued that the FIR in question was lodged after about 12 hours without there being any explanation. He further draws my attention to the statement given by the victim before the doctor stating that certain persons had caused the injury and the applicant was not named. He argues that no motive has been ascribed in the FIR. The applicant has no criminal history and is in custody since 28.09.2023, as such, he should be enlarged on bail.

4. Learned counsel for the informant, on the other hand, strongly opposes the bail application by arguing that the firearm injury caused by the informant was duly supported by the subsequent statement of the victim wherein he had taken the name of the applicant herein for causing the gunshot injury. He argues that the gunshot injury has caused three fractures and the bullet was found embedded in the ribs which was taken out and if the same was not taken out soon, it would have resulted in death of the victim. He argues that the statement of the doctor itself demonstrates that if the treatment was given with expedition, it would have resulted in death of the victim. In the light of the said, he argues that looking into the gravity of the offence, the bail application should be rejected. He, however,

does not dispute that the applicant has no criminal antecedent.

5. Learned AGA also opposed the bail application.

6. Considering the submissions made at the Bar, it is well settled that the FIR and the statement cannot be treated to be an encyclopedia and are mere first information(s), thus, to that extent, the contention of counsel for the applicant cannot be accepted. However, looking into the fact that the injury sustained by the victim was on non-vital part coupled with the fact that the applicant has no criminal antecedent and there is nothing on record to demonstrate that the applicant, if enlarged on bail, can affect the trial, the applicant is entitled to be enlarged on bail. In view thereof, the application is **allowed**.

7. Let the applicant **Roopam Sharma** be released on bail in FIR No.378 of 2023, under Section 307, 341, 504, 506, 120B IPC & Section 3/25 of Arms Act, P.S. Kharkhoda, District Meerut 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.

8. It is provided that the trial shall be concluded expeditiously as per the provisions contained in the Code of Criminal Procedure.

Order Date :- 3.11.2023

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