

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48219 of 2023

Applicant :- Sonu

Opposite Party :- State of U.P.

Counsel for Applicant :- Manoj Kumar Tripathi, Vinod Kumar Tirpathi

Counsel for Opposite Party :- G.A., Nitin Anand, Rajeev Sawhney

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Vinod Kumar Tirpathi, learned counsel for the applicant, learned AGA for the State and perused the record.
2. The instant bail application has been filed with a prayer to enlarge the applicant on bail in Case Crime No.216 of 2018, under Sections 307, 506 IPC, Police Station Kiratpur, District Bijnor, during the pendency of trial.
3. Learned counsel for the applicant submits that though the name of the applicant has been mentioned as one of the assailants in the FIR but it has not been mentioned that he had shot the injured. In the FIR the role of firing has been assigned to the co-accused, Arun Kumar. He has further contended that the investigating officer concluded that on account of previous enmity the informant side for the purposes to take revenge has created false injuries which were even not fatal or dangerous to life of the injured. In this regard he relied on the injury report and the statement of the doctor in which he has opined that though the injuries were on the upper part of the body but they were simple in nature. It has also been opined that such injury may be artificially made and such pellets may also be planted in the body. However, after the investigation when the final report was submitted the same was rejected after hearing the informant on his protest petition and the accused persons were directly summoned. Certainly the informant Saurabh Kumar is not the eye-witness of the incident who has stated that Sumit Kumar and Himanshu Kumar had seen the occurrence but their evidences were not recorded by the investigating officer. In this regard the injured has also been examined by the investigating officer who has stated that when he did hue and cry these two witnesses reached on the spot of the occurrence.
4. Learned counsel for the applicant pointed out the statements

of Nek Singh, Smt. Sushma, Raj Kumar who have stated in their statement that the informant's case is a fake case and has been lodged with ulterior motive to falsely implicate the accused. It is also contended that the injuries are simple in nature. There is variation in the statements of evidence of witnesses and in the averments of the FIR about firing as to whether the present applicant had also fired upon the injured or not and also that the applicant is in jail since 17.10.2023. There is no previous criminal history against the applicant. There is no likelihood of his abscondence or tampering with the evidence. In case the applicant is enlarged on bail, he will not misuse the said liberty.

5. Learned AGA as well as learned counsel for the informant have opposed the prayer for bail but could not satisfactorily dispute the aforesaid submissions from the record.

6. Having regard to the facts, circumstances and the submissions made 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.

7. Let the applicant - **Sonu**, 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.

8. 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 :- 5.12.2023

Shahroz