

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47783 of 2023

Applicant :- Shahrukh

Opposite Party :- State of U.P.

Counsel for Applicant :- Amit Kumar Malviya, Brij Bhushan Upadhyay, Rishi Kesh Malviya

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Heard learned counsel for the applicant, learned AGA and perused the record.
2. The accused-applicant seeks bail in Case Crime No.125 of 2023 under sections 307, 120-B IPC, P.S. Dholna, District Kasganj.
3. The FIR in question was lodged against two unknown persons alleging that the informant was called by one Rashmi stating that she wanted to meet him and on her saying, the informant went on the spot wherein two persons riding on a motorcycle caused gunshot injury to the informant.
4. The contention of the counsel for the applicant is that the applicant was not named in the FIR. He draws my attention to the statement of the alleged eye witness who had stated that two persons had caused the gunshot injury, however, he did not identify the applicant. The statement of the informant also does not identify the applicant. The counsel for the applicant draws my attention to the co-accused who admitted his guilt, however, he had stated that the second person riding with him was the applicant and based upon the said statement, the applicant was apprehended and is in custody since 18.09.2023. It is argued that in the bail rejection order it has been wrongly recorded that the applicant is in custody since 18.09.2023 whereas the applicant is in custody since 11.08.2023.
5. Learned AGA opposes the bail application.
6. Considering the submissions made at the bar, it is clear that the applicant was not named in the FIR, he was not identified by the informant or the eye witness and his name surfaced only in the statement of the co-accused who had admitted his guilt himself and there is no identification of the applicant, thus, on the basis of the statement of the co-accused alone, the applicant has been linked with the offence in question, the applicant has no criminal history, as such, the applicant is entitled to be

enlarged on bail. Thus the bail application is allowed.

7. Let the applicant *Shahrukh* be released on bail in aforesaid first information report number subject to his furnishing a personal bond and two reliable sureties of Rs.25000/- (Twenty Five Thousand) each of the like amount to the satisfaction of the 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 :- 8.11.2023

VNP/-