

Court No. - 75

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47685 of 2023

Applicant :- Gopal

Opposite Party :- State of U.P.

Counsel for Applicant :- Gaya Prasad Mishra, Shikher Trivedi

Counsel for Opposite Party :- G.A.

Hon'ble Umesh Chandra Sharma, J.

1. Heard Sri Shikher Trivedi, learned counsel for the applicant as well as Sri Mithilesh Kumar learned A.G.A. for the State and perused the record.
2. The instant bail application under Section 439 Cr.P.C. has been filed with the prayer to enlarge the applicant, **Gopal**, on bail in Case Crime No. 264 of 2023 under Sections 307 I.P.C. and Section 3/25 Arms Act, Police Station- Jagdishpura, District- Agra, during the pendency of the trial.
3. As per the prosecution case, the informant Suresh Chandra lodged the impugned F.I.R. alleging therein that on 21.5.2023 at about 8:00 A.M. in the morning, due to quarrel between his daughter Sonam and children, the accused who is brother-in-law (Jeth) of his daughter, with intention to kill shot three fires upon Sonam due to which she got badly injured.
4. Counsel for the applicant contends that the applicant has been falsely implicated in the present case. It is a case of accident as the applicant was servicing his pistol and inadvertently the bullets were fired which hit on the thighs of the injured. There was no intention to kill the injured. There is no independent witness of the alleged incident. It is next contended that during the investigation, the I.O. has mentioned in the case-diary that the applicant is not in good mental state. So far as injuries are concerned, the injured was medically examined at S.N.M.C. Hospital, Agra, where single gun shot injury was found in the body of the injured on the lateral portion of the upper part of thigh and as per the medical report, the injury was not such which may endanger the life of the injured. The criminal history of two cases has been shown against the applicant and in those cases, the applicant has been acquitted. The applicant is in jail since 22.05.2023, in case he is enlarged on bail,

he will not misuse the said liberty.

5. Learned A.G.A. has vehemently opposed the prayer and contended that the applicant is named in the F.I.R. The illegal weapon used in commission of crime has been recovered from the possession of the accused about which a case under Section 3/25 Arms Act has also been lodged against the applicant. The injured in her statement has stated that the accused with intention to kill had shot upon her. As per the medical report, a gun shot injury, hyperdense area 17 X 11 mm is seen in the intramuscular place of the left gluteus maximus muscle, likely pellet. Few air foci with mild subcutaneous edema is seen in the intermuscular place of the left gluteus muscle, left piriformis muscle and the pelvic region. Chip fracture is seen involving the posterior wall of the acetabulum. The version of the F.I.R., the statements of the injured and the medical evidence corroborate the prosecution version. Though the accused has been acquitted in two cases shown against him, however, it shows the criminal mentality of the accused and the accused, if enlarged on bail, would either temper with the evidence or delay the trial or intimidate the witnesses and such incidents may be caused by him again in future as the house of both the parties is same. Therefore, the accused does not deserve to be enlarged on bail.

6. Having regard to the aforesaid overall facts and circumstances of this case and also keeping in view the arguments advanced on behalf of the parties, nature and manner of commission of offence and evidence regarding the complicity of applicant, no case for bail, at this stage, is made out.

7. Accordingly, the bail application is **rejected**.

Order Date :- 29.11.2023

S.Verma