

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48319 of 2023

Applicant :- Prem Narayan Pandey

Opposite Party :- State of U.P.

Counsel for Applicant :- Jata Shanker Shukla, Anupama Singh, Archana Singh

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia, J.

1. Heard Ms. Archana Singh and Shri Virendra Singh, learned counsel for the applicant, learned AGA for the State; Shri Vineet Dubey and Shri Shashank Ojha, learned counsel for the informant and perused the record.

2. The FIR in question was lodged on 21.10.2019 alleging that on 20.10.2019, the brother of the informant suffered grievous injuries on account of an attempt made on his life on 20.10.2019. The allegations in the FIR refer that the victim was being taken to S.R.N. Hospital. It was also recorded that the victim was in a position to speak and he had stated that the offence in question was caused by one Jitendra Kumar Tiwari alongwith his accomplice; Jitendra Kumar Tiwari and one unknown person were mentioned in the FIR. Subsequently, the statement of the victim was recorded on 14.03.2022 wherein he stated that on the date of the incident i.e. 20.10.2019 at about 2 - 3 AM in the night, one Jitendra Kumar Tiwari whom he recognized, had caused injuries with the use of an iron object on the head, face and neck. It was stated that the applicant had also hit him. In view of the statement, although the applicant was not named in the FIR, he was also arrested and is said to be in custody since 30.06.2021. The medical report of the victim is on record which indicates grievous injuries.

3. Counsel for the applicant argues that the applicant was named in the subsequent statement given by the victim and the main role of hitting was assigned to the person named in the FIR i.e. Jitendra Kumar Tiwari. He argues that the applicant is in custody for more than 2 and 1/2 years now and the statement etc., of the informant and the victim have been recorded. He further argues that the applicant has no criminal antecedent.

4. Learned counsel for the informant, on the other hand, opposes the bail application by arguing that the nature of the injuries inflicted on the victim are severe, although he agrees that the

statement of the informant as well as the victim have already been recorded and the trial is going on at the stage of recording of the statement of the other witnesses, including the formal witnesses.

5. Learned AGA has opposed the bail application.

6. Considering the submissions made at the Bar, it transpires that although the nature of injuries suffered are grievous, there was no mention of the applicant's name in the FIR, although it was recorded that the victim was in a position to speak and had taken the name of Jitendra Kumar Tiwari and not the name of the applicant. Even in the statement recorded after about three years of the incident, the main allegations were levelled against Jitendra Kumar Tiwari and the applicant was said to be present as an accomplice causing injuries. The applicant has suffered an incarceration of 2 and 1/2 years and has no criminal antecedent.

7. As the informant and the victim have already been examined, there is no material on record to suggest that the applicant, if enlarged on bail, can in any way adversely affect the trial, as such, the applicant is entitled to be enlarged on bail. In view thereof, the application is **allowed**.

8. Let the applicant **Prem Narayan Pandey** be released on bail in FIR No.802 of 2019, under Section 307, 506 IPC, P.S. Handia, District Prayagraj 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.

Order Date :- 9.11.2023

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