

Court No. - 44

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48419 of 2023

Applicant :- Yashpal @ Brijwasi

Opposite Party :- State of U.P.

Counsel for Applicant :- Rajesh Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Pankaj Bhatia,J.

1. Heard learned counsel for the applicant as well as learned A.G.A. and perused the record.

2. The FIR in question was lodged alleging that three unknown persons has caused injuries by the use of knife and Lathi Danda on one person, namely, Gurudatt. Subsequently, based upon the statement of one eyewitness Bharatlal Sharma @ Bhartu, who took the name of the applicant of causing injuries by knife. The applicant was apprehended and on whose pointing out, the knife was also allegedly recovered. The confessional statement of the applicant was also taken.

3. The contention of the Counsel for the applicant is that even as per the statement of the eyewitness, it was stated that the grand-daughter, Gurudatt used to stay with him. He draws my attention to the statement of the grand-daughter, which is on record. She states that she used to stay with her grand-father, the victim and three persons had caused the injuries.

4. In the light of the said statement, the Counsel for the applicant argues that in the statement of the grand-daughter, there is no mention of any other person being present there including the eyewitness. It is further argued that the recovery has not been effected in the presence of any independent witness and the applicant has no criminal history.

5. Learned A.G.A. vehemently opposed the bail prayer.

6. Considering the nature of allegations against unknown person and the fact that the applicant has been implicated based upon the statement of eyewitness and the alleged recovery which is suspected as in the statement of grand-daughter of Gurudatt, the

applicant was not being present coupled with the fact that the applicant has no criminal antecedents and is in custody since 28.06.2023 and the nature of injuries sustained cannot be termed as fatal, I am of the view that the applicant is entitled to be released on bail. Accordingly, the bail application is ***allowed***.

7. Let the applicant Yashpal @ Brijwasi be released on bail in FIR/ Case Crime No.292 of 2023, under Section 307 IPC, Police Station Tappal, District Aligarh on his furnishing personal bonds and two reliable sureties of Rs.25,000/- each 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 :- 9.11.2023

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