

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48995 of 2023

Applicant :- Imran

Opposite Party :- State of U.P.

Counsel for Applicant :- Jalaj Kumar Tripathi

Counsel for Opposite Party :- G.A.

Hon'ble Krishan Pahal,J.

1. List has been revised.
2. Heard Sri Jalaj Kumar Tripathi, learned counsel for the applicant, Ms. Ifrah Islam, learned A.G.A. for the State and perused the material placed on record.
3. Applicant seeks bail in Case Crime No.532 of 2023, under Sections 307, 504 I.P.C., Police Station Bahedi, District Bareilly, during the pendency of trial.
4. As per prosecution case, the applicant alongwith other two co-accused persons are stated to have entered into an altercation with the informant on 28.8.2023 at about 06:15 a.m., whereby the applicant is stated to have fired at the informant causing firearm injuries to his right arm.
5. Learned counsel for the applicant has argued that he has been falsely implicated in the present case. The FIR is delayed by about more than twelve hours and there is no explanation of the said delay caused. Learned counsel has stated that three raido opaque round shaped shadow of metallic density have been seen in the right arm. The said injury can be manufactured. The said injury is not on vital organ of the body, although the doctor conducting the medication examination has opined it to be grievous in nature.
6. Several other submissions have been made on behalf of the applicant to demonstrate the falsity of the allegations made against him. The circumstances which, as per counsel, led to the false implication of the applicant have also been touched upon at length. It is further stated that there is no criminal history of the applicant. The applicant is languishing in jail since 15.9.2023. In case, the applicant is released on bail, he will not misuse the liberty of bail.

7. Learned A.G.A. has vehemently opposed the bail application on the ground that the situs of the injury is on vital organ. Had it been a bit on left side, the injured person would be expired, but she could not dispute that the FIR is delayed.

8. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, taking into consideration that there is no criminal antecedent of the applicant, and without expressing any opinion on the merits of the case, the Court is of the view that the applicant has made out a case for bail. The bail application is allowed.

9. Let the applicant- **Imran**, who is involved in aforementioned case crime 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 following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicant shall not tamper with evidence.

(ii) The applicant shall remain present, in person, before the Trial Court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the Trial Court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the Trial Court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

10. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

11. It is made clear that observations made in granting bail to the applicant shall not in any way affect the learned trial Judge in forming his independent opinion based on the testimony of the witnesses.

Order Date :- 24.11.2023

Vikas

[Krishan Pahal, J.]