

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 53106 of 2023

Applicant :- Nitin Rajpoot

Opposite Party :- State of U.P.

Counsel for Applicant :- Bhaskar Bhadra

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary,J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. By means of the instant bail application, the applicant has sought for his enlargement on bail in Case Crime No. 600 of 2023, under Section 302 I.P.C. and Section 3/25 of Arms Act, Police Station Baradari, District Bareilly.

3. Learned counsel for the applicant submits that applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that F.I.R. has been lodged regarding an incident of firing shots by some unknown person wherein brother of the informant died. Learned counsel for the applicant further submits that there is no direct evidence against the applicant, there are several contradictions in the statements of informant and other witnesses including the eye witness and except the confessional statement of the applicant before the police there is no evidence against him that he killed the deceased. Learned counsel for the applicant further submits that false recovery of country made pistol has been planted by the police, in fact, no such recovery has been made from the possession or pointing out of the applicant and he has falsely been implicated, therefore, he may be enlarged on bail. He next submits that applicant is languishing in jail since 04.10.2023, having no criminal history.

4. Per contra, learned A.G.A. for the State has vehemently opposed the prayer for bail by stating that one eye witness, namely, Heeralal @ Billi @ Chhotu, in his statement before the police has stated that applicant has fired shot upon the deceased on his head from his country made pistol holding in his hands when they were gambling, on account of which the deceased died on the spot, thus,

this eye witness has made specific allegation of killing the deceased by firearm holding in his hands against the applicant, therefore, he does not deserve to be enlarged on bail.

5. Keeping in view submissions of learned counsel for the parties, gravity of offence, nature of allegations and all the attending facts and circumstances of the case and considering that eye witness, Heeralal @ Billi @ Chhotu, in his statement recorded before the police has specifically made allegation against the applicant for killing the deceased by firing shot from country made pistol holding in his hands, without expressing any opinion on the merits of the case, no case for bail has been made out.

6. Accordingly, the bail application of applicant-**Nitin Rajpoot**, is **rejected**.

Order Date :- 12.12.2023

Mustaqeem.