

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9 of 2023

Applicant :- Siyaram

Opposite Party :- State Of U.P. Through The Principal Secretary Home Deptt., U.P. Government Lucknow

Counsel for Applicant :- Farooq Ayoob

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

1. Heard Sri Farooq Ayoob, learned counsel for the applicant and Sri Mukesh Singh, learned A.G.A. for the State.

2. The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No.181 of 2022 under Section 302 I.P.C., Police Station Fatehpur District Barabanki.

3.It has been submitted by learned counsel for the applicant that FIR has been lodged by wife of the deceased in which she has mentioned that there was dispute regarding money between the deceased with the applicant and the applicant had threatened the deceased to kill. It has been further stated in the FIR that due to said money issue again on 07.05.2022 altercation took place and the applicant assaulted the deceased with ' Klari' due to which he received injuries and became unconscious. The said incident was seen by father-in-law of the complainant, namely, Sant Saran. Learned counsel for the applicant has submitted that the postmortem report indicates that injury cannot be caused by 'klari' rather it can be caused by other blunt object. It has been submitted that there is recovery of stick, therefore, the case as set up by the prosecution is not matching.

4. On the other hand, learned Additional Government Advocate has pointed out that the complainant is wife of the deceased, who is an eye witness of the case and she has stated that the applicant caused injury by 'Klari' and it could have been caused by back portion of the weapon. Learned Additional Government Advocate has further pointed out the statement of Sant Saran who is eye witness of the case and he has specifically mentioned

that the deceased had taken Rs.12000/- as loan from the applicant which was not returned by him. He further stated that on the date of incident, the applicant assaulted with stick due which his son received injury and became unconscious. Learned Additional Government Advocate has further invited attention of this Court towards the antemortem injuries which are quoted below:-

"1. Lacerated wound on the right side of eye brow of size 3x1 cm. bone deep.

2. Lacerated wound on the root of nose of size 0.5X0.5 c.m. into bone deep.

3. Abrasion on the right side of face of size 2x1 c.m.

4. Abrasion on the left side of fact of size 4x3 c.m."

5. Learned Additional Government Advocate has submitted that injury mentioned in the postmortem report are corresponding with the weapon assigned to the applicant by the independent witness Sant Saran, who is father of the deceased.

6. After hearing learned counsel for the parties and considering the the arguments that Sant Saran has assigned role of using stick to the applicant and the injuries mentioned in the postmortem are corresponding with the prosecution case, therefore, I am of the opinion that it is not a fit case to release the applicant on bail.

7. Accordingly, the bail application of the applicant-Siyaram is **rejected**.

Order Date :- 21.11.2023

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