

**Court No. - 16**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 2766 of 2023

**Applicant :-** Rachit Shukla

**Opposite Party :-** State Of U.P. Thru. Addl. Chief Secy. Deptt. Of Home Lko.

**Counsel for Applicant :-** M.V.S. Chauhan, Divya Prakash, Durga Prasad Singh, Mohd. Shahid Akhtar

**Counsel for Opposite Party :-** G.A.

**Hon'ble Subhash Vidyarthi, J.**

1. Heard Sri Mohd. Shahid Akhtar, learned counsel for the applicant, Sri Arpit Kumar, learned A.G.A. for the State and perused the records.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 568 of 2022, under Sections 34, 336, 504, 506, 307 I.P.C., registered at Police Station Madiyaon, District Lucknow.
3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 25.10.2022 against four persons, including the applicant, stating that the accused persons indulged in hurling abuses and brick batting and on the exhortation of other accused persons, the applicant fired a shot with a pistol due to which the informant and two other persons-Dhiraj Yadav and Aman Verma got injured.
4. Medico legal examination reports of the informant and two persons have been annexed with the affidavit, which show that the informant and Aman Verma had suffered multiple pellet injuries on their bodies. Other injured person Dhiraj Yadav had 'rounding abrasion with oozing of blood present, margin irregular'.
5. In the affidavit filed in support of bail application, it has been stated that the applicant is innocent, and he has been falsely implicated in the present case. In para 13 of the affidavit, applicant's involvement in Case Crime No.993 of 2017 under Section 3/25 Arms Act, Police Station Madion, District Lucknow has been disclosed in which he has

been granted bail by means of order dated 14.09.2017.

**6.** The State has filed a counter affidavit annexing with copies of the material collected during investigation and a copy of the charge-sheet. The informant and the witnesses have supported the FIR allegation and all of them have stated that the shot was fired by the applicant. Applicant's involvement in a total of four cases has been disclosed in counter affidavit, which include the present case and Case Crime No.993 of 2017 mentioned in the affidavit filed in support of the application.

**7.** A rejoinder affidavit has been filed on behalf of the applicant stating that the applicant has not been summoned in Case Crime No.817 of 2017 mentioned in the counter affidavit and he has been implicated in Case Crime No.569 of 2022 under Section 3/25 Arms Act, Police Station Madaon, Lucknow on the basis of alleged recovery of illegal firearm, which is said to have been used in the present incident.

**8.** Learned counsel for the applicant has submitted that the injuries suffered by all the injured persons are simple in nature.

For deciding a claim for grant of bail for commission of offence under Section 307 IPC, the Court has to take into consideration intention of accused persons and not its outcome.

**9.** Learned counsel for the applicant has further submitted that all the accused persons have been granted bail and, therefore, the applicant is also entitled to be released on bail.

Allegation against the applicant is of firing a gun shot and causing injuries to three persons whereas there was no such allegation against other co-accused persons, who have been granted bail, therefore, grant of bail to co-accused persons does not have any effect while considering the application for grant of bail to the applicant.

**10.** Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that three persons have received gun shot injuries in the incident, all of whom have consistently stating that the injuries were caused because of a shot fired by the applicant; and that the applicant has given effect to the present case while he was on bail in a previous offence under Section 3/25 Arms Act, I am of the view that the aforesaid facts do not warrant exercise of discretion of this Court by enlarging the applicant on anticipatory bail.

**11.** In view of the above, the anticipatory bail application of the applicant is **rejected**.

**(Subhash Vidyarthi, J.)**

**Order Date :-** 26.10.2023  
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