

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3402 of 2023

Applicant :- Sujal Srivastava @ Prince @ Sharad Srivastva

Opposite Party :- State Of U.P. Thru. Prin. Secy. Home Lko.

Counsel for Applicant :- Sanat Kumar Ojha, Amar Singh, Diwakar Pratap Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Sadhna Rani (Thakur),J.

1. Heard learned Counsel for the applicant as well as learned A.G.A. and perused the record.
2. The accused- applicant is involved in Case Crime No. 282 of 2022, under Section 307 IPC, Police Station Kotwali Nagar, District Balrampur.
3. It is argued by learned counsel for applicant that as per FIR, the applicant has been assigned the role of opening fire on the injured but in the statement of the injured before the trial court, he has not named the applicant as a person opening fire on him rather the injured has specifically denied that the present applicant opened fire on him. The first informant, who is father of the injured, has also not supported the prosecution version in the court. The applicant is languishing in jail since 10.10.2022. There is no criminal history to the credit of the applicant. Hence, the prayer for bail is made.
4. Learned A.G.A. opposed the prayer for the bail of the applicant and pointed out the statement of the injured and the first informant that in the statement under Section 161 Cr.P.C. they have supported the prosecution version.
5. From the perusal of record, it is found that in the FIR there is allegation of opening fire against the present applicant only and

the injuries on the person of the injured are also found to be firearm injuries. The bullet is said to have hit on the abdomen of the injured. The injury report of District Hospital, Balrampur is place before the Court. According to that report, two injuries were found on the stomach of the injured regarding which x-ray was advised and the injured was referred to KGMU, Lucknow but there is no report on record to show nature of the injury or treatment given to the injured in KGMU, Lucknow. There is no statement of the doctor of KGMU, Lucknow to explain the nature of the injuries. The injured as PW-2 and the first informant as PW-1, have not supported the prosecution case before the trial court. The first informant has stated in his statement that he was not the eyewitness of the incident. He did not witness the incident by his own eyes while the injured as PW-1 has stated that he could not see that who opened the fire on him. He specifically denied that the applicant opened fire on him. The applicant is languishing in jail since 10.10.2022.

6. Perusing the record, considering the facts and circumstances of the case, the nature of allegations, arguments advanced by the learned counsel for the parties and without expressing any opinion on the merit of the case, I find it to be a case of bail.

7. The bail application is allowed.

8. Let the applicant Sujal Srivastav alias Prince alias Sharad Srivastav, who is involved in aforesaid 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.

1. The applicant will attend and co-operate the trial proceedings pending before the court concerned on the dates fixed after release.

2. He will not tamper with the witnesses.

3. He will not indulge in any illegal activities during the bail period.

9. The identity, status and residential proof of sureties will be verified by the court concerned and in case of breach of any of the above conditions, the trial court shall be at liberty to cancel the bail and send the applicant to the prison.

10. It is clarified that the observations, if any, made in this order are strictly confined to the disposal of this bail application and must not be construed to have any reflection on the ultimate merits of the case.

Order Date :- 12.12.2023

Virendra