

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6291 of 2023

Applicant :- Khooti

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

Counsel for Applicant :- Sanjay Kumar Sharma, Dileep Kumar Pathak, Satish Kumar Sharma

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Harendra Singh, learned counsel for the applicants, the learned A.G.A. for the State and perused the records.

2. The instant application has been filed by the applicant seeking anticipatory bail in F.I.R. bearing Case Crime No. Case Crime No. 135 of 2023, under Sections 147/148/149/307/332/379/411 I.P.C. and Section 26 of Indian Forest Act, registered at Police Station Pachperwa, District Balrampur.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 25.03.2023, against 5 persons, not including the applicant, alleging that on the basis of an information received from a mukhbir some persons were apprehended while they were carrying a log of wood on a bicycle. One person, Dev Kumar was arrested and other persons ran away. While interrogation was being made from the person arrested the other accused persons tried to get him freed by assaulting a constable on his head with an axe.

4. The medico legal examination report of the injured mentions some injuries of simple nature caused by hard and blunt object but it does not make a mention of any injury on his head having been caused by an axe.

5. In the affidavit filed in support of bail application, it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no criminal history. The applicant has been named in the custodial statement of a Head Constable namely Sarvdev Kumar Maurya.

6. A co-accused Deep Kumar has already been granted bail by means of an order dated 07.04.2023, passed by learned Sessions Judge, Balrampur. Co-accused Ram Kumar Chaudhary @

Chunni, Ram Prasad Verma and Shyam Kumar have been granted bail by means of the orders dated 28.08.2023 passed by this Court in Criminal Misc. Bail Application No. in Bail No.7502 of 2023. Co-accused Yogendra Prasad alias Badkan has been granted anticipatory bail by means of an order dated 19.09.2023 passed by this Court in Criminal Misc. Anticipatory Bail Application No. 2025 of 2023.

7. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the F.I.R. alleges assault on the head of a constable with an axe and although the constable suffered some injuries, there is no such injury which may support the aforesaid allegation; that the applicant has been implicated on the basis of subsequent statement of an injured person and that four co-accused persons have already been granted bail, coupled with the fact that the applicant has no previous criminal history and without making any observations which may affect the outcome of the case, I am of the view that the aforesaid facts are sufficient for making out a case for granting anticipatory bail to the applicant.

9. In view of the above, the anticipatory bail application of the applicant is **allowed**. In the event of arrest/ appearance of applicant-**Khooti** before the learned Trial Court in the aforesaid case crime, he shall be released on anticipatory bail on his furnishing personal bond and two solvent sureties, each in the like amount, to the satisfaction of S.H.O./Court concerned on the following conditions and subject to any other conditions that may be fixed by the Trial Court:

(i). That the applicant shall appear before the trial court on each date fixed, unless personal presence is exempted;

(ii). That the applicant shall not, directly or indirectly make any inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the court or to any police officer or tamper with the evidence;

(iii). That the applicant shall not pressurize/ intimidate the prosecution witness.

Order Date :- 28.10.2023

Pradeep/-