

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 6980 of 2023

Applicant :- Himanshu

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

Counsel for Applicant :- Mukesh Kumar Tewari, Bhupinder Pal Singh

Counsel for Opposite Party :- G.A., Sushil Kumar Verma, Viksit Srivastava

Hon'ble Subhash Vidyarthi, J.

1. Heard Shri Mukesh Kumar Tewari, learned counsel for applicant, Sri Rakesh Kumar Singh, learned A.G.A. for the State and perused the record.
2. The present bail application has been filed by the applicant seeking bail in case crime no.97 of 2023, under Sections 147, 148, 323, 307, 504, 506, 324, 34 I.P.C., P.S. Kotwali Dehat, District Gonda.
3. As per version of the F.I.R., accused applicant Himanshu along with nine other named persons and 10-15 unknown persons, came armed with weapons like iron rod, pharsa and pistol. They attacked the members of first informant's family causing injuries to his father Rajesh Singh, uncles Jatashanker Singh and Indra Bahadur Singh and aunt Geeta Singh. It is alleged in the F.I.R., that leaving them injured they fled away firing in the air with the pistol. The injured persons were taken to hospital by calling ambulance on Dial 112.
4. It is contended on behalf of the applicant that all the close members of his family including his two brothers and father have been named in the F.I.R. Had 20-25 persons with intention to take life attacked the family members of the first informant, a number of grievous injuries would have surely been caused. However, the medical of the injured persons belies this fact. Injured Indra Bahadur Singh sustained two abrasion on non vital parts of his body; Geeta Singh sustained only two abrasion on non vital parts of her body; Rajesh Singh sustained six injuries, in the nature of traumatic swelling and abrasion caused by some sharp edged weapon, of minor dimensions; Jata Shanker Singh sustained injuries of the nature of laceration, traumatic swelling, total six in number. It is further contended that at the most matter comes under Section 325 I.P.C. No

offence under Section 307 I.P.C. has been revealed from the material collected by the I.O. It is further submitted that co-accused Sani Singh @ Rajneesh, has already been granted bail by means of an order dated 21.11.2023 passed by a coordinate bench of this Court in Criminal Misc. Bail Application No.5939 of 2023. It is next contended that the applicant is in jail since 21.03.2023 i.e. eight months now and in the three cases cited as his previous criminal history, he has been granted benefit of Section 41A of Cr.P.C. in two cases and in one case he has been acquitted.

5. The application for bail is opposed by learned A.G.A. However, most of the contentions of the applicant could not be countered in a credible manner.

6. I considered nature of the allegations, role ascribed to the applicant, the evidence proposed, the severity of punishment and all other facts and circumstances of the case. In my view, a case for bail is made out.

7. Let applicant - **Himanshu** be released on bail in the aforesaid Case Crime Number on his furnishing personal bond and two reliable sureties each of the like amount to the satisfaction of the court concerned subject to following conditions:-

(i) The applicant shall not temper with evidence/witnesses.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel.

(iii) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) framing of charge and (ii) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present as well as permanent address of the accused as well as sureties shall also be duly verified and the applicant shall submit undertaking that he shall not change his address without prior intimation to the court concerned.

8. Any violation of above conditions will be treated as misuse of bail and

learned Court below will be at liberty to pass appropriate order.

9. It is made clear that the observations made in this order are limited to the purpose of determination of this bail application and will in no way be construed as an expression on the merits of the case. The trial court shall be absolutely free to arrive at its independent conclusions on the basis of evidence led unaffected by anything in this order.

(Subhash Vidyarthi,J.)

Order Date :- 22.11.2023

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