

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8189 of 2023

Applicant :- Juber Ahmad

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

Counsel for Applicant :- Kailash Nath Mishra, Janardan Singh, Rahul Mishra

Counsel for Opposite Party :- G.A., Vivek Pandey

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Kailash Nath Mishra and Sri Janardan Singh, the learned counsel for the applicant, Sri Jayant Singh Tomar, the learned A.G.A-I for the State as well as Sri Vivek Pandey, learned counsel for the informant and perused the record.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 167 of 2023, under Section 323, 307 I.P.C., registered at Police Station Tarabganj, District Gonda.
3. The aforesaid case has been registered on the basis of F.I.R. lodged on 24.04.2023 by the applicant's brother Mohd. Tufail against the applicant, his brother Junaid Ahmad, stating that the informant's brothers had beaten him up badly at about 8:00 pm on 23.04.2023 and on the exhortation of the co-accused Junaid Ahmad, the applicant had fired a shot aiming towards the chest of the informant but by chance the bullet hit on the right hand of the informant.
4. The medico legal examination of the informant mentions an entry wound of size 1.0 cm X 1.0 cm on inner aspect of right arm, 8.0 cm, below from axilla and burning and blackening around the wound was present. An exit wound of 0.5 cm X 0.5 cm has been reported on outer aspect of right arm. No abnormality has been reported in the X- ray examination.
5. In the affidavit filed in support of the bail application, it has been stated that the applicant is involved in another case bearing N.C.R No. 183/2021 under Section 323, 504 I.P.C., Police Station Tarabganj, District Gonda, in which the applicant has not received any notice of summon till date.

6. The learned counsel for the applicant has submitted that co-accused Junaid Ahmad, has been granted bail by means of an order dated 23.05.2023 passed by a coordinate bench of this Court in Criminal Misc. Bail Application No. 6690/2023. He further submitted that the allegations of badly beating the informant and thereafter firing a shot when he was lying on the earth, is not supported by the findings of the medico legal examination report.

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

8. Having considered the aforesaid facts and circumstances of the case and also keeping in view the fact that the other co-accused person has already been granted bail , I am of the view that the applicant is also entitled to be released on bail.

9. Accordingly, this bail application stands **allowed**.

10. Let the applicant- **Juber Ahmad** be released on bail in the aforesaid case, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of Magistrate/Court concerned, subject to the following conditions: -

(i) the applicant shall not tamper with the prosecution evidence;

(ii) the applicant shall not pressurize the prosecution witnesses;

(iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi,J.)

Order Date :- 7.11.2023

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