

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 8752 of 2023

Applicant :- Abhishek Mishra

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

Counsel for Applicant :- Vashu Deo Mishra, Sourabh Mishra

Counsel for Opposite Party :- G.A., Surya Prakash

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

Heard learned Counsel for the applicant, learned counsel for the first informant, A.G.A. and perused the record.

The accused- applicant is involved in Case Crime No. 179 of 2023, under Sections 307 and 504 I.P.C., Police Station Palia, District- Lakhimpur Kheri.

It is argued by the learned counsel for the applicant that there is allegation of causing stabbed injury in the stomach of the injured by the present applicant. As per the medical report, the injured was taken to the hospital by two persons whose statements have not been recorded by the Investigating Officer. The applicant is a psychiatric patient. The documents regarding his treatment are appended from page 27 to 34 of the paper book. The applicant is said to be arrested by the police after 3 hours of the incident. The scissors alleged to be used in the incident is said to have been recovered from the possession of the applicant. It is not possible that the applicant committing crime would roam with the weapon used in the crime after 3 hours of the incident when he was arrested. The applicant is languishing in jail since 5.5.2023, hence, the prayer for bail is made.

Learned counsel for the first informant opposed the prayer for the bail of the applicant and submitted that the FIR was lodged after 4 hours and 7 minutes of the incident by the brother of the injured. The statement of the injured is also on record in the counter affidavit wherein he has specifically stated that it was the applicant who stabbed him in his stomach with scissors when he was talking with his friend Raj Kumar Rathor. The medical report of the injured is appended with the paper book. Witness Raj Kumar Rathor, who is said to have come on the spot after knowing on telephone from the injured that the injured was being abused by the applicant, has also supported

the prosecution version.

From the perusal of the record, it is found that the FIR was lodged by the brother of the injured. The present applicant was named that he first abused the injured and then assaulted him with a sharp edged weapon in his stomach on right side. The medical report of the injured is placed before the court wherein the penetrated injury was found on the left side of the abdomen region of the injured. The statement of the injured is also on record that when he was talking on his mobile with his friend Raj Kumar Rathor and was riding his motorcycle at a very low speed, he was being abused by the applicant. When the injured stopped his motorcycle and asked the reason for abusing him, the applicant caught hold of him and stabbed the scissors in his stomach in left side of his stomach. He was severely injured and was taken to the hospital by Raj Kumar Rathor and Babloo and other persons. The statement of the injured apart from the witnesses Raj Kumar Rathor and Babloo is on record. After sustaining this injury, the injured was taken to CHC Palia, then he was referred to District hospital Lakhimpur Kheri, thereafter he was referred to KGMU Lucknow where he remained admitted for 6 days. The injured was discharged on 11.5.2023. Learned counsel for the first informant further submitted that even after discharging from the hospital, the injured is not feeling well. The treatment of the injured is said to be continuing till date. He is reported to be unable to walk and he keeps on lying in the bed and is taking liquid as food. He is suffering a lot. So far as the argument of the learned counsel for the applicant being a psychiatric patient is concerned, the documents placed before the court are of the year 2018 and 2019 while the incident is of the year 2023.

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 do not find it a fit case of bail. The bail application of the applicant is devoid of merit and is liable to be rejected.

It is hereby rejected.

Order Date :- 11.12.2023

Gss