

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9016 of 2023

Applicant :- Mohammad Juber

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

Counsel for Applicant :- Mata Prasad Yadav

Counsel for Opposite Party :- G.A., Paritosh Shukla, Sukh Deo Singh

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard Sri Mata Prasad Yadav, learned counsel for applicant and Sri V.K. Srivastava, learned A.G.A. for the State.

2. The present bail application has been filed by the applicant seeking bail in case crime no. 139 of 2023, under sections 147, 148, 323, 307 I.P.C. at Police Station-Jamon, District-Amethi.

3. As per the version of the FIR, accused persons namely, Ibrar, Sohail Khan, Nazim Ali, Meraz Khan and 5-6 unknown persons had waylaid the informant's son and one Vipin Singh, they had fired at them with pistol and when both of them fell down, all the accused persons had assaulted them with iron rods and sticks.

4. It is contended on behalf of the applicant that he is innocent and has been falsely implicated in this case in a well planned manner. He is not named in the FIR and his name has been introduced later on by the complainant in his statement under section 161 Cr.P.C. The medico legal examination report of Shashank Singh issued by the Command Hospital, Lucknow mentions that he had come walking to the hospital and he had a moderate head injury. No other injury is mentioned in his medical papers.

5. The learned A.G.A. has opposed the prayer for bail and on the basis of instructions, he has stated that other person Vipin Singh has also suffered head injury and an injury on his jaw.

6. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that four named persons and 5-6 unknown persons are set to have fired on two persons but no person has received any firearm injury in the incident; that all the 9-10 accused persons are said to have assaulted two persons with sticks and iron rods and both the injured persons have suffered injuries on their heads and jaw only and there is no injury on any other part of their bodies; the applicant is in custody from 29.05.2023 and all other facts and circumstances of the case, in my view, a case for bail is made out.

7. Let applicant - **Mohammad Juber** 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 (a) hearing/framing of charge and (b) recording of statement under Section 313 Cr.P.C. without exception.

(iv) It is further provided that before issuing the release order, present and 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 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.

Order Date :- 20.11.2023

Vikram