

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 9931 of 2023

Applicant :- Shekhar Kaushal

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

Counsel for Applicant :- Panna Lal Gupta, Mohammad Shahzad

Ahmad, Shamshad Ahmad, Subrat Gupta

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

1. Heard learned counsel for the petitioner and learned A.G.A. for the State.
2. This bail application has been filed by the applicant seeking bail in Case Crime No.589 of 2022 under sections 341, 336, 323, 427, 307, 147, 148, 149 and 34 I.P.C. P.S.- Vibhuti Khand, District- Lucknow.
3. As per the version in the F.I.R., co-accused Ayush Tripathi called the first informant to come over and have tea. The first informant along with Achal Srivastava, Saurabh Tripathi, Aditya Yadav, Rishabh Srivastava and Ayush Yadav, went on the spot. The moment they reached at the place of occurrence, the accused side obstructed their way and started pelting stones on the vehicle. They tried to go back to save themselves however, accused applicant - Shekhar Kaushal began firing on them. They managed to escape. The first informant and Rishabh Srivastava sustained injuries and they informed the local police station about the incident.
4. It is contended on behalf of the applicant that no offence under section 307 is made out. The F.I.R. shows a concocted story. He has been falsely implicated on account of earlier disputes between the two sides. Both the sides knew each other and had friendly relations. The medico-legal of the lone injured showed only one external injury which is an abrasion on the lateral side of the forearm and the other one is complaint of pain. It is contended that from the medico-legal examination, at the most offence under section 323 is made out and no more. The applicant is in custody since 13.07.2023. Two cases have been shown as his criminal history. In one of them, final report has been submitted and the matter has been dropped and in the other one, he has been released on bail. It is assured that the applicant shall abide by conditions, if any, imposed by this Court while granting bail and shall fully cooperate in the trial.
5. The application of bail is opposed by the learned A.G.A. However, it is conceded that the only medical report available on record shows simple injury on non-vital part of the body.
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 - **Shekhar Kaushal** 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.

Order Date :- 21.11.2023

Sumit Kumar