

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 11938 of 2023

Applicant :- Eraz

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

Counsel for Applicant :- Ramendra Kumar

Counsel for Opposite Party :- G.A.,Manju Gupta,Rajesh
Kumar Srivastava

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

Heard learned counsel for the applicant, Sri Rajesh Kumar Srivastava, learned counsel for first informant, learned A.G.A. and perused the record.

This application has been moved by the applicant with a prayer to enlarge him on bail in Case Crime No.205 of 2023, under Sections 307, 323, 504 I.P.C., Police Station Talgano, District-Sitapur.

It is argued by the learned counsel for the applicant that the present applicant is not named in the FIR. For the first time, in the statement of injured Rahees, the name of the applicant was introduced. There is contradiction regarding time of incident in the FIR and in the medical report. It was a fight wherein a cross case, an NCR was lodged by Armaan. There was dispute regarding wiring of fields. Members of both the parties are shown to be injured. In the injury report, no injury of sharpened edged weapon has been found. Identically placed co-accused Meraz has been granted bail by the co-ordinate Bench of this Court. The applicant is languishing in jail since 16.07.2023, hence, the prayer for bail is made.

The prayer is opposed by learned counsel for the first informant and learned A.G.A. It is submitted that as per the statement of the injured the main role is assigned to the present applicant. It is admitted fact that the present applicant is not named in the FIR. In the statement of injured Rahees, the name of the present applicant has been introduced as a person assaulting the injured with a spade (phanwada). It is true that in the medical report of the same day i.e. 02.07.2023, one lacerated wound on neck, one abrasion over right scapula, one contused swelling on right side of forehead and complaint of pain in the whole body of Rahees was noted by the concerned doctor. As per the statement of

doctor A.P. Singh, the injured was assaulted by some sharp edged weapon. The condition of injured was not stable rather due to this grievous injury the injured could have died also. The spade (phanwada) is said to have been recovered at the instance of the present applicant. The prayer of parity is also opposed on the ground that the case of the present applicant is different from that of co-accused Meraz, who has been granted bail earlier.

From the perusal of the record, it is found that the present applicant is not named in the FIR. In the statement of injured the main role of assaulting him with spade (phanwada) is attributed to the present applicant. An NCR is said to have lodged by Armaan regarding the same incident. In the supplementary report also, the doctor concerned has mentioned that on the neck of the injured there were injuries caused by some sharp edged weapon and the neck injury of the injured was deep enough. It was grievous in nature and due to this injury the injured could have died also. The role of the present applicant is differentiable from those of co-accused persons.

After perusing the record in the light of submissions advanced at the bar, taking overall view of the facts and circumstances of the case, without commenting on the merit of the case, I do not find it a fit case for bail.

The bail application is, hereby, **rejected**.

Order Date :- 29.11.2023

Radhika