

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 12299 of 2023

Applicant :- Kuldeep And Another

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

Counsel for Applicant :- Shishir Pradhan

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Shishir Pradhan, learned counsel for the applicants, Sri Rishikesh Verma, learned A.G.A. for the State and Sri S.P. Singh Somvansi, learned counsel for the informant and perused the records.

2. The instant application has been filed seeking release of the applicants on bail in Case Crime No.0069 of 2023, under Sections 323, 324, 307, 452, 506 I.P.C., registered at Police Station Udaipur, District Pratapgarh.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 18.06.2023 at 15:41 Hours against 3 persons, including the applicant, alleging that when the informant's nephew was alone in his house, accused persons entered his house at about 9 AM on the aforesaid date and started a quarrel. They pushed the victim on the ground and assaulted on his neck. Hearing some noises emanating from the house, two persons, Ram Milan and Anuj entered the house and found the victim in an injured state and the accused persons ran away through the roof of the accused.

4. In the affidavit filed in support of bail application, it has been stated that the applicants are innocent, they have been falsely implicated in the present case and they have no criminal history.

5. In the statement of the victim, Amrit Lal, he stated that he was alone in the verandah of his house at the time of incident when the accused persons came abusing him and co-accused, Deep Chandra exhorted to kill the victim. Accused persons took him to a room at the

roof top of the house and beaten him up causing a fracture in his leg. Co-accused, Deep Chandra assaulted the victim on his neck and the applicants were catching hold of him. The victim stated that Deep Chandra had caused 3-4 cut injuries on his neck. Accused persons had ran away hearing the sound of someone approaching.

6. Victim's son, Anuj also supported the FIR allegations. Although he has been described an eye witness, but in the statement he did not say that he had witnessed the incident.

7. Discharge summary of the victim issued by K.G.M.C. mentions that the victim was admitted in the hospital at 07:05:56 P.M. on 18.06.2023 and he was discharged on 30.06.2023. Discharge slip mentions only a neck cut injury (Tracheal Breach) with left calcaneus fracture due to alleged history of assault on 17.06.2023.

8. The learned A.G.A. and the learned counsel for the informant have opposed the bail application.

9. The learned A.G.A. has placed reliance upon the statement of the victim and the findings of medical reports recorded in the case diary, which have already been annexed with the affidavit filed in support of the bail application. It is also recorded in the case diary that a request was sent to the hospital on 06.07.2023 for X ray of the victim and the same had not been provided till date i.e. 26.07.2023 and it is not available even till date.

10. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the FIR mentions the time of incident to be 9 AM on 18.06.2023, the FIR has been lodged at 15:41 Hours on 18.06.2023 whereas discharge summary mentions the date of injury to be 17.06.2023; it does not make a mention of any injury suffered by the victim other than a cut on his neck, which is said to have been caused by co-accused-Deep Chandra; that the applicants have no previous criminal history and they are languishing in jail

since 19.06.2023 and without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail in the aforesaid crime.

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

12. Let the **applicants**-Kuldeep and Ram Saran be released on bail in aforementioned case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of magistrate/court concerned, subject to following conditions:-

- (i) the applicants shall not tamper with the prosecution evidence;
- (ii) the applicants shall not pressurize the prosecution witnesses;
- (iii) the applicants shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 17.10.2023
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