

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 15366 of 2022

Applicant :- Mohd. Ibrar @ Abrar

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

Counsel for Applicant :- Anil Kumar Yadav, Dinesh Kumar Ojha, Santosh Kumar Tirpathi, Surekha Patel

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi, J.

1. Heard Sri Dinesh Kumar Ojha, learned counsel for the applicant, Sri Shaunak Singh, learned A.G.A.-I for the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.0302 of 2021, under Sections 147, 307, 506 I.P.C., registered at Police Station Mandhata, District Pratapgarh.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 25.07.2021 against five persons including the applicant alleging that all the accused persons had fired at the informant's son with intention to kill him.

4. In the affidavit filed in support of bail application it has been stated that the applicant is innocent and he has been falsely implicated in the present case. A supplementary affidavit has been filed on behalf of the applicant disclosing his involvement in two other cases in which the applicant has been granted bail.

5. The State has filed a counter affidavit opposing the bail application and copies of relevant materials collected during investigation has been annexed with the counter affidavit. In the statement of the injured he has stated that the co-accused Imran

had fired a shot which missed the victim and thereafter the applicant took the pistol from Imran and fired another shot which hit the victim between his toe and a finger.

6. The learned counsel for the applicant has submitted that the co-accused Imran against who also allegation of firing a shot has been levelled has already been granted bail by means of an order dated 31.05.2022, passed by this Court in Criminal Misc. Bail Application No.11047 of 2021.

7. The learned A.G.A. has opposed the bail application and he has submitted that the case set up against the applicant is not at par with the case set up against the accused Imran as the shot fired by the applicant has hit the victim. The applicant and the co-accused Imran both have been charged with the commission of offence under Section 307 I.P.C. which is attracted when a person does an act with intention or knowledge that he may by that act cause death. The allegations against both the accused persons Imran and the applicant is of having fired a shot. The shot fired by the co-accused Imran had missed the victim whereas the shot fired by the applicant has hit the victim between his thumb and finger. Therefore, so far as the commission of offence under Section 307 I.P.C. is concerned, prima-facie it appears that the case set up against both the accused persons is similar at least for the purpose of grant of bail on the ground of parity.

8. The learned A.G.A. has opposed the prayer for bail but he could not dispute the aforesaid aspects of the matter.

9. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the applicant is languishing in jail since 10.11.2022 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.

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

11. Let the **applicant-Mohd. Ibrar @ Abrar** be released on bail in the aforesaid 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 applicant shall not tamper with the prosecution evidence;
- (ii) the applicant shall not pressurize the prosecution witnesses;
- (iii) the applicant shall appear on each and every date fixed by the trial court.

(Subhash Vidyarthi, J.)

Order Date :- 29.11.2023
Ram.