

Court No. - 28

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13541 of 2023

Applicant :- Azad Tiwari @ Atul

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

Counsel for Applicant :- Om Prakash Pandey, Vaibhav Pandey

Counsel for Opposite Party :- G.A.

Hon'ble Mrs. Jyotsna Sharma, J.

01. Heard Shri Om Prakash Pandey, learned counsel for applicant and learned A.G.A. for the State.

02. The present bail application has been filed by the applicant seeking bail in case crime no.132 of 2023, under Sections 147, 148, 149, 307, 323, 427 and 506 I.P.C., P.S. Baldi Rai, District Sultanpur.

03. As per version of the F.I.R., when the first informant along with his cousin was going for purchase of some articles, the accused persons came from behind, riding on motorcycles and they overtook the first informant on pistol point and assaulted both of them with danda leaving them injured. They fled away seeing people gathering there.

04. It is contended on behalf of the applicant that initially an F.I.R. was registered under Sections 394, 307, 323, 427 and 506 I.P.C.. During investigation allegations as to snatching of Rs.50,000/- from the pocket of the cousin of the first informant and looted motorcycle were found false. During investigation Section 394 I.P.C. has been dropped. It is further contended that there are general allegations against six persons named in the F.I.R. No specific role of causing injury has been assigned to the applicant; all the injuries were found simple in nature; there is not a single injury which can be categorized as one bringing the matter within Section 307 I.P.C.; the applicant is in custody since 20.09.2023; he has no criminal history and he shall abide by conditions, if any, imposed by this Court while granting bail and shall fully cooperate in the case.

05. The application for bail is opposed by learned A.G.A. highlighting the fact that first informant and his brother suffered a number of injuries which cannot be ignored. However, it is conceded that the applicant is having no criminal antecedents and all the injuries caused are simple in nature.

06. 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.

07. Let applicant - **Azad Tiwari @ Atul** 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.

08. Any violation of above conditions will be treated as misuse of bail and learned Court below will be at liberty to pass appropriate order.

09. 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 :- 17.11.2023

Asha