

Court No. - 29

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14386 of 2023

Applicant :- Nandu Singh @ Bhagwan Baksh Singh

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

Counsel for Applicant :- Satendra Jaiswal, Ashwini Kumar Singh

Counsel for Opposite Party :- G.A.

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

Heard learned counsel for the applicant, learned A.G.A. and perused the record.

This application has been moved by the applicant - Nandu Singh alias Bhagwan Baksh Singh to enlarge him on bail in Case Crime No. 0302 of 2023 under Sections 323, 324, 352, 504, 506, 307, 34 IPC Police Station Tikaitnagar, District Barabanki.

It is argued by the learned counsel for the applicant that the FIR was lodged under Sections 323, 324, 352, 504, 506, 308, 34 IPC on 29.07.2023 regarding incident dated 28.07.2023 against the applicant and 4 co-accused persons but the charge sheet was filed under Sections 323, 324, 352, 504, 506, 307, 34 IPC. The incident took place in Barabanki while the injured was taken to Gonda in a private hospital so that the injuries of the injured be manipulated. In King George's Medical University, Lucknow the injury of the injured was found to be caused by some hard and blunt object. Section 307 IPC cannot be said to be made out. There was no intention on the part of the applicant so the case cannot be covered under Section 307 IPC. The same day injured was discharged from King George's Medical University as the injuries were found to be simple. On 30th July, 2023, he is again said to have admitted in King George's Medical University and was discharged on 11.08.2023 but in the documents of Barabanki Hospital the injured is shown to be admitted on 10.08.2023. It was not possible that when the injured was discharged from King George's Medical University on 11.08.2023 how he could be admitted in Barabanki Hospital on 10.08.2023.

It is again argued by the learned counsel for the applicant that the place of incident is just 200 meters away from the house of the injured. The accused along with co-accused persons was present there prior to reaching of the injured and was celebrating moharram festival. As per medical report, there is no complaint of vomiting, ear/nose/throat bleeding, loss of consciousness and seizure. There is no recovery of any

incriminating material from the applicant. It is also submitted that the accused himself surrendered before the court. The applicant is languishing in jail since 27.09.2023, hence, the prayer for bail is made.

Learned A.G.A. opposed the prayer for bail and submitted that as per FIR the injured was assaulted by the persons mentioned in the FIR including the present applicant. The head injuries were caused to the injured. The injuries were grievous. The incident took place on 28.07.2023 at 8.30 p.m. The injured was immediately taken to the nearest hospital Paraspur (Gonda), from where he was referred to Sudha Neuro & Trauma Centre, Gonda and from Sudha Neuro & Trauma Centre, Gonda the injured was referred to District Hospital, Barabanki and again from there he was referred to King George's Medical University and from King George's Medical University the injured was discharged on 11.08.2023. The statement of the injured could not be recorded as he was not in a position to give statement due to the injuries. Hence, it is a case of attempt to murder, which can be seen from the injuries inflicted to the injured. Hence, prayer is made accordingly.

From perusal of the FIR, it is clear that there is allegation of assaulting the injured by the applicant along with co-accused persons with lathi, danda and pharsa. It is mentioned in the FIR that it was the assault with intention of causing death of the injured. As per documents, the weapon pharsa is assigned to other co-accused person. The present applicant is assigned lathi/danda. It is found on the basis of various reports present on record that the incident took place at 8.30 p.m. on 28.07.2023. The injured was inflicted head injuries. There was excessive blood loss. He was immediately taken to the hospital at Paraspur (Gonda), as this was the nearest hospital, according to learned A.G.A. From there, the injured is said to have been referred to Sudha Neuro & Trauma Centre, Gonda. In record, there is document of Sudha Neuro & Trauma Centre, Gonda, appended at page-93 of the paper book, wherein the injuries of the injured are mentioned as under:-

"Linear non displaced fracture of parietal bone on right side reaching upto squamous part of right temporal bone with associated adjacent soft tissue swelling."

Admittedly, the injured was referred from Sudha Neuro & Trauma Centre, Gonda to District Hospital, Barabanki, then to King George's Medical University/R.M.L., Lucknow. The referral document is appended at page-97 of the paper book. In the column of investigation 'NCCT - (H) SDH' has been mentioned. In KGMU the injured is admitted the same day on

29th July, 2023 at 3.32 p.m., from there he is shown to be discharged on 11.08.2023. It is true that after discharge from King George's Medical University on 11.08.2023 the injured is again shown to be admitted in District Hospital, Barabanki on 10.08.2023. This discrepancy may be cleared by the statement of the doctor/record of the hospital at the time of evidence. In this document also in the column of brief history and clinical notes "post operative case of SDH" is mentioned. As per document appended at page 109 of the paper book issued from District Hospital, Barabanki the patient is again referred to RML or other higher centre (KGMU) on 25.08.2023. But no document of any further treatment is placed before the court.

However, it is found on record that the statement of the injured could not be recorded due to his serious condition, as the pipe was fixed through his nose for supplying fluid/food. Various statements of the eye witnesses; Manish Singh, Manoj Kumar Singh and Smt. Bindu Singh etc. are on record supporting the prosecution version that the present accused along with other co-accused persons with intention of causing death of the injured assaulted various blows of lathi/danda on the head of the injured. It is also alleged that head of the injured was broken and it was bleeding profusely. In the supplementary report of KGMU, appended at page-107 of the paper book, loss of consciousness and history of vomiting was found.

Thus, after perusing the record in the light of submission advanced at the bar, taking overall view of the facts and circumstances of the case, the nature of accusation and the period of detention already undergone 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 :- 7.12.2023

gp