

Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14567 of 2023

Applicant :- Bhola Shankar Pandey

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

Counsel for Applicant :- Srees Kumar Srivastava

Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Srees Kumar Srivastava, learned counsel for the applicant, Sri Neeraj Singh, learned counsel for the informant, who has put in appearance by filing *vakalatnama*, which is taken on record, and the learned Addl. Government Advocate, and perused the record.

2. By means of the instant application the applicant Bhola Shankar Pandey seeks bail in Case Crime No. 151 of 2023, under sections 307, 504, 506, I.P.C., and Section 30, Arms Act, P.S. Bighapur, District Unnao.

3. The aforesaid case has been registered on the basis of an First Information Report (F.I.R.) lodged on 18.8.2023 at 19.30 hrs. against three persons, including the applicant, his father and brother, alleging while the son of the informant was sitting on the boundary-wall of his residence at about 11.45 a.m. on 18.8.2023, the accused persons came there. The applicant was carrying a licensed pistol. Co-accused Luvprakash was carrying a licensed single barrel gun and the other co-accused Girija Shanker was carrying a stick. On the exhortation of the other co-accused persons, the applicant fired two shots with his pistol, which hit both the legs of the informant's son. When several persons reached to save him, the applicant fired a shot towards the informant's father, but it hit the wall. Meanwhile, one Amritesh Tiwari snatched away the pistol from the applicant and the informant thereafter went to the Police Station alongwith the pistol and his injured son.

4. In the affidavit filed in support of the bail-application it has been stated that the applicant is innocent. He has been falsely implicated in the present case. The applicant's involvement in another case bearing Case Crime No. 85 of 2022 under Sections 354, 452, 506, I.P.C., Police Station Bighapur, District Unnao, has been disclosed in the affidavit, in which he has been released on bail.

5. Learned counsel for the informant has vehemently opposed the bail-application and he has submitted that the applicant had fired multiple shots, which indicates his intention to kill the

victim and keeping in view this conduct of the applicant, he is not entitled to be enlarged on bail.

6. A copy of the medico-legal examination report of the victim has been filed, which indicates although the victim have suffered two gun-shot wounds, both the shots have been suffered on his knees.

7. Learned counsel for the applicant has submitted that the place of injury indicates that there was no intention to kill the victim and at the most the applicant is guilty of commission of offence under Section 324, I.P.C. which carries a maximum sentence of imprisonment upto 3 years.

8. 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 without making any observation, which may affect the merits of the case, I am of the view that the aforesaid facts make out a case for enlargement of the applicant on bail.

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

11. Let the applicant **Bhola Shanker Pandey** be released on bail in the aforesaid Case Crime No. 151 of 2023, under sections 307, 504, 506, I.P.C., and Section 30, Arms Act, P.S. Bighapur, District Unnao, be released on bail on his 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.

12. In case of breach of any of the above conditions, the prosecution shall be at liberty to move bail cancellation application before this Court.

(Subhash Vidyarthi, J.)

Order Date :- 11.12.2023/A.Nigam