Court No. - 16

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 14706 of 2023
Applicant :- Mohd Shadab
Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Home Lko.
Counsel for Applicant :- Satendra Kumar (Singh),Abhishek Misra,Nalin Arora
Counsel for Opposite Party :- G.A.

Hon'ble Subhash Vidyarthi,J.

1. Heard Sri Satendra Kumar (Singh), the learned counsel for the applicant, Sri Arpit Kumar, the learned A.G.A appearing on behalf of the State and perused the records.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No.272 of 2023, under Sections 147, 148, 149, 336, 341, 323, 506, 307 I.P.C., registered at Police Station Kursi, District Barabanki.

3. The aforesaid case has been registered on the basis of an F.I.R. lodged on 25.09.2023 against 10 persons, including the applicant, alleging that co-accused persons Idrish, Yunus and Munna were blocking the passage in front of the informant's house and upon being objected, they assaulted the informant and his family members. Allegations against the aforesaid three persons is of firing gun shots and the rest of the accused persons are said to have indulged in brick batting and making assaults with banka.

4. Eight persons have received injuries in the incident, none of which is an incised wound, which can be received by use of a banka and allegation of causing gun shot injuries is against three other persons. The allegation against the rest of the persons, including the applicant, is causing injuries by indulging into brick batting. Injuries other than firearm injuries have been reported to be simple in nature.

5. One of the co-accused Yunus, has been granted bail by this Court by means of the order dated 30.11.2023 passed in CRIMINAL MISC. BAIL APPLICATION No.14082 of 2023 keeping in view the fact that Yunus has lodged an FIR

No.271 of 2023 at 19:00 Hours on 14.09.2023, which indicates that the allegations made in the FIR that Yunus was involved in the commission of the offence at precisely the same time was false. Other co-accused persons, namley, Yusuf, Golu, Mo. Sameer @ Mannu and Haseeb, have also been granted bail by means of the order dated 02.12.2023, 06.12.2023 and 06.12.2023 passed by this Court in CRIMINAL MISC. BAIL APPLICATIONS No.14191 of 2023, 14331 of 2023, 14348 of 2023 and 14354 of 2023, respectively.

6. In the affidavit filed in support of bail application it has been stated that the applicant is innocent, he has been falsely implicated in the present case and he has no previous criminal history.

7. The learned A.G.A. has opposed the bail applicant and he has submitted that a large unlawful assembly has committed the offence and caused injuries to as many as eight persons and the injured witnesses have supported the allegations, keeping in view the nature of allegations, the applicant is not entitled to be granted bail.

8. Having considered the aforesaid facts and circumstances of the case and keeping in view the fact that the F.I.R alleges commission of offence by numerous accused persons, including one Yunus, who was present in the police station at the time of the incident, for lodging an F.I.R, from which it appears that the first information report has not been lodged on the basis of correct facts; that no specific allegation has been leveled in the FIR against the applicant, there is general allegation of his indulging in brick batting with 6 other co-accused persons; injuries caused by hard and blunt object are of simple nature and that five co-accused persons have already been granted bail, coupled with the fact that the applicant is languishing in jail since 31.10.2023 and without making any observation, which may affect the merits of the case, I am of the view that the applicant is also entitled to be released on bail.

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

10. Let the applicant- **Mohd Shadab** 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 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 :- 14.12.2023
Preeti.

Digitally signed by :-
PREETI GAUTAM
High Court of Judicature at Allahabad,
Lucknow Bench