

Court No. - 27

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 3794 of 2023

Applicant :- Vishwanath

Opposite Party :- State Of U.P. Thru. Addl. Chief Secy. Deptt. Home, Lko.

Counsel for Applicant :- Tripuresh Mishra

Counsel for Opposite Party :- G.A.

Hon'ble Brij Raj Singh,J.

Heard Sri Tripuresh Mishra and Ms. Chandrika Rani Upadhyaya, learned counsel for the applicant and Sri Rajesh Kumar Singh, learned A.G.A. for the State.

The present bail application has been filed by the applicant with a prayer to enlarge him on bail in Case Crime No. 252 of 2022, under Sections 323,504,506,304 IPC, Police Station- Panchdeora, District- Hardoi.

It has been submitted by learned counsel for the applicant that there are four accused against whom allegation of assault has been levelled and the deceased received one injury on his head and other two injuries received on non-vital parts of the body. Learned counsel for the applicant has submitted that general allegation has been levelled against all the accused persons, and one of the accused Harish Chandra has been granted bail by this Court vide order dated 28.02.2023 passed in Criminal Misc. Bail Application No.3114 of 2023. It has also been submitted that the case of the applicant is at par with case of co-accused Harish Chandra. The applicant has no previous criminal history and there is no possibility of fleeing away from the judicial process or tempering with the witnesses and in case, the applicant is enlarged on bail, he shall not misuse the liberty of bail. The applicant is in jail since 28.10.2022.

Learned A.G.A. though opposed the prayer for bail but could not dispute the aforesaid facts that the co-accused- Harish Chandra has been granted bail by this Court.

Sri Rajhesh Kumar Singh, learned A.G.A. has stated that injury report filed by the doctor concerned is illegible.

Without expressing any opinion on the merits of the case and after hearing learned counsel for the parties and looking into overall facts and circumstances of the case as well as the fact that co-accused- Harish Chandra has been granted bail by this Court and general role of assault assigned to all the accused persons , I find it a fit case for bail

Let the applicant, namely, **Vishwanath**, be released on bail in the above case crime number on his furnishing a personal bond and two sureties each in the like amount to the satisfaction of Court concerned with the following conditions :-

(i) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the dates fixed for evidence when the witnesses

are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under Section 229-A of the Indian Penal Code.

(iii) In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under Section 82 Cr.P.C. is issued and the applicant fails to appear before the court on the date fixed in such proclamation, then the trial court shall initiate proceedings against him, in accordance with law, under Section 174-A of the Indian Penal Code.

(iv) The applicant shall remain present, in person, before the trial court on the dates fixed for (i) opening of the case, (ii) framing of charge and (iii) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law.

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.

At this stage, it is to be noted that from perusal of the injury report, it appears that the injuries mentioned in the report are illegible and the prosecution side as well as the applicant side faces difficulty while going through the injury report.

The Court is of the opinion that in future postmortem report or injury report prepared by the doctor should be in typed format and legible, so that the same can be read easily. Therefore, I direct the Principal Secretary, Medical Health and Family Welfare Government of U.P. Lucknow to issue a proper direction to all the Chief Medical Officers of the District that postmortem report as well as injury report will be transcribed in typed format.

The Senior Registrar of this Court is directed to forward a copy of this order to the Principal Secretary, Medical Health and Family Welfare Government of U.P. Lucknow forthwith for necessary compliance.

This case shall be listed for monitoring after two months as to what action has been taken in pursuance of directions issued by this Court.

List this case on 25.05.2023.

Order Date :- 20.3.2023

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