
(2005) 08 AHC CK 0218

Allahabad High Court

Case No: Criminal Miscellaneous Bail Application No. 11860 of 2005

Sonveer @ Sonu

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Aug. 31, 2005

Acts Referred:

- Penal Code, 1860 (IPC) - Section 307, 324, 504

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: Sunil Chandra Srivastava and Nitin Srivastava, for the Appellant; Sunil Vashisth and A.G.A., for the Respondent

Final Decision: Dismissed

Judgement

Ravindra Singh, J.

Heard Sri Sunil Chandra Srivastava and Nitin Srivastava learned counsel for the applicant, Sri Sunil Bashishth , learned counsel for the complainant and the learned A.G.A.

2. The applicant has applied for bail in Case Crime No. 68 of 2005 under Sections 307 and 504 I.P.C. P.S. Saroorpur District Meerut.

3. From the perusal of the record, it reveals that in the present case, the F.I.R. was lodged by one Mangey Ram at police station Saroorpur , District Meerut on 1.4.2005 at 8.10 P.M., in respect of the incident which had occurred on 1.4.2005 at about 6.30 P.M. The distance of the police station was about 4 Km. from the alleged place of occurrence ,

4. The prosecution story in brief is that the applicant was outraging the modesty of the girls. He was asked by the injured Krishna Pal not to do so about 4-5 months prior to the alleged occurrence. On 1.4.2005 at about 6.30 P.M. , the injured Krishna Pal was standing at the doorof his house. The applicant came there and started

hurling the abuses. On that shouting, the first informant , his son and some other women came out from the house. The applicant used knife blow on the person of the injured with an intention to commit his murder , consequently he received injury but the applicant having a knife was apprehended by the first informant and others, in scuffling and snatching the knife , the first informant has also received the knife injuries in the fingers of his left hand. After receiving the injuries, the condition of the injured Krishna Pal became serious so he was taken to Meerut by Om Pal, Vishnu Pal Brahm Singh and others by Maruti Car. The first informant and his son Sonu and other villagers have taken to the applicant alongwith his knife to the police station in a Jeep , where the F.I.R. was lodged and the applicant was taken into custody by the police. Accordingly to the medical examination report, the injured had received incised wound 2 cm x 1 cm x depth not probed present over 6th intercostal space at 5 O'clock position of nipple was done. Supplementary Medical Examination report shows that this injury received by the injured was grievous in nature.

5. It is contended by the learned counsel for the applicant that even according to the prosecution version, the applicant used only one knife blow. There is no allegation in respect of the repetition of the knife blows and there was no motive or intention for the applicant to commit the murder of the injured , thereafter offence u/s 307 I.P.C. is not made out . At the most, the offence u/s 324 I.P.C. is made out, which is a bailable .

6. It is further contended that the applicant was also medically examined on 2.4.2005 at 11.20 A.M. at P.H.C. Saroorpur Khurd, Meerut. He was brought by the police. He had received 3 injuries in which injury No. 1 was a contusion over the left side of face, injury No. 2 was a contusion on interior side of right wrist joint and injury No. 3 is a contusion over the post surface of right thumb. It is contended that the applicant has also received injury in the said incident . The right of the self defence was available to him and his injuries were not explained.

7. It is opposed by the learned A.G.A. by submitting that in the present case, the injury was caused by the applicant by using the knife blow at the door of the injured with an intention to commit his murder. The injury was grievous in nature and there was no opportunity for the applicant to repeat the knife blow because he was apprehended immediately after the use of the first blow of knife , therefore, the offence u/s 307 I.P.C. is clearly made out. It is further contended that according to the prosecution version, there had been scuffle between the applicant and the other persons and in scuffling , his knife was snatched and he was arrested on the spot in the course of his arrest he received 3 contusions, which were on the face wrist joint and outer surface of right thumb. Which were simple in nature In such circumstances, a right of self defence was not available to the applicant. The applicant was arrested on the spot at the time of committing the offence, the chance of his false implications is ruled out, therefore, he does not deserve for bail.

8. Considering the facts and circumstances of the case and the submissions made by the learned counsel for the applicant and the learned A.G.A. and considering the fact that the applicant caused the injury on the person of the injured on the chest at his door by using the knife blow, the injury was grievous in nature and the applicant was arrested on the spot alongwith the knife and during the course of his arrest, the applicant had also sustained 3 simple injuries, the F.I.R. was promptly lodged and there is no material to show that the applicant was having any right of self defence, as such, the plea of self defence if taken shall be considered at the stage of trial, therefore, without expressing any opinion on the merit of the case, the applicant is not entitled for bail.

9. Accordingly this bail application is rejected at this stage.