
(2006) 12 AHC CK 0151

Allahabad High Court

Case No: Criminal M.B.A. No. 22894 of 2006

Jaidesh

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision: Dec. 12, 2006

Acts Referred:

- Penal Code, 1860 (IPC) - Section 120B, 302, 307, 34, 504

Citation: (2007) 1 ACR 967

Hon'ble Judges: Ravindra Singh, J

Bench: Single Bench

Advocate: Satish Trivedi, Jai Narain and D.S. Pandey, for the Appellant; J.S. Kashyap and A.G.A., for the Respondent

Judgement

Ravindra Singh, J.

This application has been filed by the applicant Jaidesh with a prayer that he may be released on bail in Case Crime No. 502 of 2006 under Sections 302, 307, 504, 120B and 34, I.P.C. P.S. Loni, district Ghaziabad.

2. The prosecution story in brief is that the F.I.R. of this case has been lodged by Umesh Kumar on 20.5.2006 at about 7.45 p.m. in respect of the incident which had occurred on 20.5.2006 at about 4.30 p.m., distance of the police station was only one and half km. The applicant and two other co-accused persons namely Aadesh and Lilu are named in the F.I.R. It is alleged that the first informant was having litigation with the applicant and co-accused Aadesh in respect of plot. On 20.5.2006 at about 4.30 p.m. the applicant and co-accused Aadesh, co-accused Lilu armed with country made pistol came out from the house of one Bashir, they hurled the abuses and discharged shots and caused injuries to the deceased Kanti Prasad Kashyap, who was sitting on a chair. The alleged occurrence was witnessed by Dharmendra, Rakesh, Smt. Krisna Devi, Prem Chand and the first informant, they made hue and cry, then shots were discharged by the miscreants towards them also but nobody

received any injury. Thereafter, the accused persons escaped from the place of occurrence by Maruti Car. The co-accused Aadesh was having his licensed revolver. The deceased in a serious condition was taken to G.T.B. Hospital, Delhi, where he succumbed to his injuries at 6.15 p.m. Thereafter, the F.I.R. was lodged.

3. According to the post mortem examination report, the deceased had received six ante-mortem injuries, in which injury Nos. 1, 3 and 4 were firearm wounds of entry, injury No. 2 was grazed abrasion by firearm, injury No. 5 was two lacerated wounds, and injury No. 6 was redish abrasion.

4. Heard Sri Satish Trivedi, senior advocate, assisted by Sri Jai Narain and Sri D. S. Pandey, learned Counsel for the applicant, learned A.G.A. for the State and Sri J. S. Kashyap, learned Counsel for the complainant.

5. It is contended by the learned Counsel for the applicant that the prosecution story is highly improbable and injuries were not caused to the deceased in the manner as alleged by the prosecution. There was no motive or intention for the applicant to commit the alleged offence. It is further contended that it is said that the injuries were caused from a distance of 8 paces as marked in the site plan but some of the firearm injuries were having blackening and tattooing, which cannot be caused from a distance of 8 paces, it shows that no witness was present at the time of the alleged occurrence. The applicant is innocent, he has not committed the alleged offence but he has been falsely implicated due to ill will of the first informant. The applicant is not having any criminal antecedent; therefore, he may be released on bail.

6. In reply to the above contention it is submitted by the learned A.G.A. and the learned Counsel for the complainant that the role of causing injury by firearm is assigned to the applicant and two other co-accused persons and the deceased has received firearm injuries. The F.I.R. was promptly lodged. There was no delay in lodging the F.I.R. The applicant was having strong motive to commit the offence. The alleged occurrence has been witnessed by the independent witnesses. In case, the applicant is released on bail, he shall tamper with the evidence. Therefore, he may not be released on bail.

7. Considering the facts, circumstances of the case and submissions made by the learned Counsel for the applicant and the learned A.G.A. and the learned Counsel for the complainant, considering the gravity of the offence and without expressing any opinion on the merits of the case the applicant is not entitled for bail. Therefore, the prayer for bail is refused.

8. Accordingly this application is rejected.