

M.Cr.C. No.3237/2013

28.06.2013

Shri Vivek Singh, learned counsel for the applicant.

Smt. Mamta Shandilya, learned panel lawyer for the non-applicant/State.

Heard. Case diary perused.

This is third application under Section 439 of Cr. P. C. for grant of bail. The applicant – Suresh S/o Nanulal Raikwar is implicated in Crime No.126/2012 registered at Police Station – Industrial Area for the offence punishable under Sections 302, 307/34 of the I.P.C. and Section 25 of Arms Act and Section 3(2)(5) of SC/ST (Prevention of Atrocities) Act, 1989.

The first application of the applicant was dismissed on merit vide order dated 05.12.2012. Thereafter, second bail application was filed vide M.Cr.C. No.2116/2013. This application was also dismissed, as withdrawn vide order dated 16.04.2013 on the ground that the applicant suppressed the fact regarding dismissal about his first application.

This third application has been filed on the ground that the main accused – Golu who has committed murder of Ashok and he is implicated on the basis of oral dying

declaration and the court statement of PW-11 – Brijendra, his application for grant of bail has been allowed vide order dated 12.04.2012 passed in M.Cr.C. No.1739/2013.

Learned counsel for the applicant has further submitted that as per police statement of Brijendra (PW11), the allegation regarding causing fatal injury is against Golu whereas the allegation against the applicant is that he caused knife injury to the injured – PW-1.

He further submitted that the court statement of the injured (PW1) has been recorded and this witness has turned hostile and had not supported the prosecution of the case. He also submitted that the medical report of the injured (PW1) reveals that his injury is simple in nature.

With the aforesaid, he submitted that looking to the period of custody of the applicant and the court statement of material prosecution witness, this application for grant of bail be allowed and the applicant be released on bail.

On the other hand, learned panel lawyer for the non-applicant/State opposed the bail application and relied on the court statement of Brijendra (PW11) and prayed for dismissal of this repeat bail application.

On due consideration of the aforesaid and looking to the fact that main accused - Golu has been released on bail

vide order dated 12.04.2013 and allegation against the applicant is of causing injuries to PW1 which is simple in nature, without expressing any opinion on the merits of the case, I allow this bail application and it is directed that the applicant be released on bail subject to his furnishing a personal bond in the sum of Rs.30,000/- with one surety in the like amount to the satisfaction of the concerned JMFC/CJM for his appearance before him or trial Court on all dates of hearing as may be fixed in this behalf by the Court concerned during trial.

Certified copy as per rules.

(P. K. Jaiswal)
Judge

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