

HIGH COURT OF UTTARAKHAND AT NAINITAL

First Bail Application No. 81 of 2020

Hari Singh

...Applicant

Versus

State of Uttarakhand

....Opposite party

Hon'ble Ravindra Maithani, J.

Mr. Abhishek Verma, Advocate for the applicant.

Mr. Pratiroop Pandey, AGA with Ms. Geeta Parihar,

Brief Holder for the State.

This matter is heard through Video Conferencing.

2. Applicant, Hari Singh, who is in judicial custody, in FIR No. 340 of 2019, under Section 307 IPC, Police Station Bazpur, District Udham Singh Nagar, has sought his release on bail.

3. The case is based on an FIR lodged on 03.10.2019 at 9:40 PM. According to it, on 03.10.2019, at 7:30 in the evening, the applicant visited the house of the victim and called him out. The victim thought that perhaps the applicant visited him for election purposes, he came out. As soon as, the victim came out of his house, the applicant stabbed him on his stomach. The victim cried. Immediately the informant came out from his house, who happens to be a son of the victim. He snatched the knife from the hand of the applicant and took his father to the police station and from there to the hospital.

4. Learned counsel for the applicant would argue that no case under section 307 IPC is made out because there has been no motive or intention attributed to the applicant to commit such an offence. It is argued that the knife was not recovered from the applicant; the allegedly recovered knife has never been sent for forensic examination; there has been no Forensic Science Laboratory report; charge sheet has been filed; therefore, it is argued that it is a case fit for bail.

5. On behalf of the State, learned counsel would submit that the victim has stated about the incident. In addition to it, his son, who was also the eyewitness and the informant of the case has also supported the case. The weapon of offence was recovered from the applicant itself at the time when he attacked the victim. It is informed that charge sheet has been submitted, but victim has not been examined.

6. The incident took place at 7:30 PM on 03.10.2019 and FIR was lodged at 9:40 PM. In medical examination a stab wound was found deep in the stomach of the victim.

7. At the stage of bail, much of the scrutiny of the evidence should not be made. It is also well settled that in the cases of direct evidence, motive and intention have less space. However, the victim told it to the IO that the children of the applicant are not mentally well and for it the applicant holds the victim responsible.

8. The victim has supported the case in his statement given to the IO. Similarly, informant who had snatched the knife from the hand of the applicant soon after his father was attacked has also supported the case during the investigation and stated about it. Chargesheet has been filed but it is stated that the

evidence is yet to be recorded. At this stage if the applicant is enlarged on bail, it may affect the process of fair trial.

9. Having considered the rival submissions and all the attending factors, this Court is of the view that at this stage, the applicant is not entitled to be enlarged on bail. Therefore, the bail application deserves to be rejected.

10. The bail application is rejected.

(Ravindra Maithani, J.)
29.05.2020

Jitendra