

HIGH COURT OF UTTARAKHAND

AT NAINITAL

ON THE 29TH DAY OF JANUARY, 2021

BEFORE:

HON'BLE SHRI JUSTICE SHARAD KUMAR SHARMA

FIRST BAIL APPLICATION No.2391 of 2020

BETWEEN:

Jogi Singh alias Joga Singh (Male) aged about 21 years S/o Shri
Ranjeet Singh R/o Village Ajjuwala, P.S. Gadarpur, District
Udham Singh Nagar.

....Applicant

(By Mr. Harshpal Sekhon, Advocate)

AND:

State of Uttarakhand through Secretary, Home, Govt. of
Uttarakhand, Dehradun

....Respondent

(By Mr. Pankaj Joshi, Brief Holder for the State of Uttarakhand)

JUDGEMENT

There were three accused persons, who are said to be involved in the commission of offence, which has been complaint of on 30.10.2020, which was ultimately registered as FIR No.344 of 2020, for the offence under Sections 307, 353, 34, 427 IPC.

2. On reading of the FIR and also in the light of the argument which has been extended by the counsel for the applicant, the role which is reflected from the FIR, so far, it is attributed to the present applicant, its only that in fact he was ridding the motor cycle in question, which was allegedly engaged in the commission of the said offence, but as far as the offence pertaining to Section 307 IPC, is concerned, that was complained of to be committed by the other co-accused person, who are shown to be carrying a firearm, as well as *patal*. Apart from that if the FIR, itself is taken into consideration in its entirety, coupled with the averments, which has been made in the counter affidavit filed by the Government Advocate, it is not a case where the injury has been caused on person of the victim. Though for the purposes of the determination of offence under Sections 307 IPC, infliction injury may not play an important role for consideration of involvement of a person in an act for commission of offence, because it has been argued by the Government Advocate that though admittedly, it is not a case of injury but owing to the very fact that assailants and the applicants who were travelling on the same motorcycle, which was being ridden by the applicant and the assault was made, it would had amount to that the applicant was carrying a common intention and hence, he would not be entitled for bail.

3. On an overall scrutiny of the contents of the FIR though the applicant is named in the FIR, but the principle set of allegation, which has been made under Section 307, is not apparently made out against him *prima facie*, at present in terms of the averments made in the FIR, as well as in the counter affidavit. Hence, he is directed to be

released on bail subject to furnishing of his personal bond and two sureties of the like amount to the satisfaction of the Magistrate concerned. (All reasoning given by this Court are tentative only, would not prejudice the trial).

4. This grant of bail is with a clarification that this Court is granting bail to the applicant only on consideration of his role, which has been assigned to him in the FIR. It may not be treated, as to be a ground for parity while consideration of bail, for the other co-accused persons, who are being assigned with a specific role of carrying firearm and having assaulted the victim.

(Sharad Kumar Sharma, J.)
Vacation Judge

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