
(2006) 05 AHC CK 0181

In the Allahabad High Court

Case No : Criminal Misc. Bail Application No. 2838 of 2006

Nawneet Kumar Trivedi @ Popat (In Jail)

APPELLANT

Vs

State of U.P.

RESPONDENT

Date of Decision : 26-05-2006

Acts Referred:

Penal Code, 1860 (IPC) — Section 307, 506
Railways Act, 1989 — Section 137

Citation : (2006) 05 AHC CK 0181

Hon'ble Judges : Ravindra Singh, J

Bench : Single Bench

Advocate : K.K. Tiwari, V.K. Sharma, P.N. Singh and Sanjay Kumar, for the Appellant; Kamleshwar Singh, Bhupesh Rai, J.S. Upadhyaya, J.N. Pandey, V.S. Mishra, Rupesh Rai, Rajesh Rai and S.K. Sharma and A.G.A., for the Respondent

Final Decision : Dismissed

Judgement

Ravindra Singh, J.—This application is filed by the applicant Nawneet Kumar Trivedi alias Popat with a prayer that he may be released on bail in case crime No. 287 of 2005, under Sections 307 and 506 I.P.C. P.S. Kotwali district Ballia.

2. The prosecution story, in brief, is that in the present case the F.I.R. was lodged by one Sushil Kumar Sharma, Advocate at P.S. Kotwali on 21.8.2005 at 8.40 a.m. in respect of the incident, which had occurred on 21.8.2005 at about 7.30 a.m. The distance of the police station was about 1 1/2 km from the alleged place of occurrence. The F.I.R. was lodged only against the applicant alleging therein that there was dispute between the applicant and the first informant over a house. The applicant was extending threats and developing pressure on the first informant to vacate the house in which he was residing. There had been litigation between the first informant and the father of the applicant. On 21.8.2005 at about 7.30 a.m. the first informant along with his son injured Avinash Kumar Sharma was sitting in his verandah. The applicant along with one unknown person came there on a motorcycle and the applicant threw a bomb

towards the first informant which did not hit him, but it hit the son of the first informant. The second bomb was also thrown by the applicant which did not caused any injury. The condition of the son of the first informant became very serious due to injury received by him.

3. Thereafter, he was taken to the District Hospital, Ballia where he was medically examined and admitted in the hospital for treatment. Thereafter, the first informant went to the police station to lodge the F.I.R.

4. Heard Sri V.K. Sharma, Sri Kamlesh Kumar Tiwari and Sri Sanjay Kumar learned Counsel for the applicant, learned A.G.A. for the State of U.P. and Sri Kameshwar Singh, Bhupesh Rai, Sri J.S. Upadhyaya and Sri J.N. Pandey learned Counsel for the complainant.

5. It is contended by the learned Counsel for the applicant that: -

(i) The applicant has been falsely implicated in the present case due to pendency of litigation between the parties. The alleged offence was committed by some unknown person. It is evident from the F.I.R. also that one unknown person has been shown in the company of the applicant.

(ii) The allegation against the applicant is that he threw a bomb on the first informant, but he did not receive any injury. The injury was received by his son Avinash Kumar Sharma.

(iii) The applicant was having no motive or intention to cause injury on the person of injured.

(iv) The injuries received by the injured are on the antero, lateral aspect on lower half of the left thigh and knee, and upper 1/3 of left lower leg. The injuries were muscle to bone deep. The injury was on non vital part of the body an it was not dangerous to life. The offence u/s 307 I.P.C. is not made out.

(v) On the date of alleged occurrence the applicant was detained in Regional Jail, Hazipur (Bihar). He was caught by the Railway Authority without ticket in a train and he was convicted and sentenced u/s 137 of the Railway Act. He remained in Jail since 15.7.2005 to 24.8.2005, whereas the alleged occurrence had taken place on 21.8.2005.

(vi) The applicant is in jail since 26.11.2005. The applicant is having no criminal antecedents, therefore, he may be released on bail. It is opposed by the learned A.G.A. and the learned Counsel for the complainant by submitting that the alleged occurrence had taken place in a broad day light at about 7.30 a.m. at the house of the first informant, the bomb was thrown by the applicant which caused injury on the person of the injured. The injury was kept under observation and advised X-ray. It was caused by bomb blast. There was strong motive for the applicant to commit the alleged offence, because the applicant wanted to get vacated the house from the first informant. There had been litigation between the first informant and father of the applicant. The applicant was living on the

first floor of the house and the first informant along with his family was living in the ground floor of the same house. The alleged offence has been committed by the applicant in a preplanned scheme by which the applicant managed to send some person in jail u/s 137 Railway Act at his name and address. In fact the applicant was not detained in Regional Jail, Hazipur, some other person was detained there at his name. The identification marks and other details were summoned by the learned Sessions Judge from Hazipur Jail which were not tallying with the identification marks noted in the jail register of District Jail, Ballia. On the basis of the allegation made against the applicant the offence u/s 307 I.P.C. is made out. In case he is released on bail he may abscond and tamper with the evidence also, therefore he may not be released on bail.

6. After considering the facts and circumstances of the case and submissions made by the learned Counsel for the applicant and the submission made by the learned G.A. that the applicant has committed the offence in preplanned manner by sending some other person to jail at his name, only to take the benefit of alibi, prima facie which could not be established by the applicant and 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.

7. Accordingly, the bail application is rejected.