

Allahabad HC Orders NMC Inquiry Against 2 Doctors For Preparing 'False' Medical Report To Cause Wrongful Harm To Accused.

2023 LiveLaw (AB) 2

HIGH COURT OF JUDICATURE AT ALLAHABAD

SUBHASH VIDYARTHI, J.

CRIMINAL MISC. BAIL APPLICATION No. 42581 of 2022; 20.12.2022

Ghanshyam Pandit versus State of U.P.

Counsel for Applicant:- Sunil Kumar Srivastava

Counsel for Opposite Party :- G.A., Mohit Kumar

1. Heard Sri Sunil Kumar Srivastava, the learned counsel for the applicant, Sri Arun Kumar Pandey, the learned Additional Government Advocate, Sri Mohit Kumar, the learned counsel for the informant and perused the record.
2. A copy of the Case Diary that has been produced by the learned A.G.A., is taken on record.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 342 of 2022, under Sections 147, 148, 149, 323, 307 IPC, Police Station Sadar Bazar, District Saharanpur during pendency of the trial in the Court below.
4. The aforesaid case has been registered on the basis of an F.I.R. lodged on 16.06.2022 at 18:30 hours against the applicant, one Pranav Sikka and some unknown persons alleging that the applicant had called the informant's son by making a phone call at 4:00 p.m. and at about 4:30 p.m. the informant's son informed his cousin Prince through phone that the applicant, Pranav Sikka and other persons have beaten him up and have shot him, he was injured and was reaching Government Hospital.
5. Medico legal examination report of the informant's injured son was prepared by S.B.D. District Hospital, Saharanpur on 16.06.2022 at 5:30 hours mentions three injuries i.e. (i) lacerated wound (1.0 X 1.0 c.m.) over left upper part of arm 3.0 c.m. away from left nipple muscle deep (ii) lacerated wound 16.0 X 0.5 c.m. over left side of arm 5.0 c.m. below left nipple muscle deep and (iii) Abrasion 3.0 X 0.5 c.m. on back of left side of chest. The injury Nos. 1 and 2 were kept under observation and the injury No. 3 was opined to be simple in nature. All the injuries were opined to have been caused by some hard and blunt object.
6. The injured was thereafter taken to a private Hospital namely, "V-Bros Hospitals" on 16.06.2022 at 6:57 p.m. and the case summary of the injured prepared by a Doctor of the aforesaid Hospital on 29.06.2022 mentions that the patient was presented in the Emergency Ward with A/N/O assault injury of gun shot at 5:00 p.m. on 16.06.2022 by some unknown people. He was brought from the SBD Hospital, Saharanpur where he was given primary treatment and P.I. and MLC was done in SBD Hospital and second P.I. and MLC was refused by the relatives (father and brother); a wound on chest with two openings on left side (approximately 2 X 1 X 15 c.m.) with 1.5 c.m. opening point (entry above left nipple and exit below nipple left), no lung and bony injury; patient was taken to OT for repair of wound, patient was discharged on 20.06.2022.
7. The X-ray examination of the injured as well as HRCT does not mention any abnormality, except soft tissue swelling seen in left anterior chest wall.
8. In the statement of the injured recorded under Section 161 Cr.P.C. he reiterated the F.I.R. version and he stated that on the exhortation of the applicant, Shivam and Yuvraj

caught hold of his hands and the applicant and one Shaurya fired gun shots with pistols being carried by them and one bullet hit his chest. He further stated that several of the other co-accused persons were also carrying pistols. A pistol is said to have been recovered on the pointing out of co-accused Shaurya Thakur and a pistol was recovered on the pointing out of the applicant.

9. In the affidavit filed in support of the bail application, it has been stated that the applicant is innocent and he has been falsely implicated in the present case.

10. A supplementary affidavit has been filed on behalf of the applicant disclosing his involvement in a case bearing Case Crime No. 514 of 2017 under Sections 323, 504, 326, 354 IPC and the Police has submitted final report in the aforesaid case which was accepted by the Chief Judicial Magistrate, Saharanpur by means of an order dated 28.02.2020 and it has been stated that besides the aforesaid case, the applicant has no other criminal antecedents.

11. The applicant is languishing in jail since 16.08.2022.

12. Per contra, the learned Additional Government Advocate has opposed the prayer for grant of bail.

13. I have considered the aforesaid facts and circumstances of the case and the submissions made by the learned counsel for the parties. What prima facie appears from the material available on record at this stage is that although the F.I.R. alleges that the applicant, Pranav Sikka and some other persons had beaten up the informant's son and have shot him. In the statement of the injured, it has been stated that the other accused persons had caught hold of his hand and the applicant and one Shaurya Thakur had fired shots with intention to kill him; that although the injured stated in his statement that one bullet had hit on his chest, in the medico legal examination of the injured prepared by the SBD District Hospital, Saharanpur, no injury caused by gunshot has been reported; that the medico legal examination report of the injured person prepared by the SBD District Hospital, Saharanpur mentions two muscle deep lacerated wounds, which were advised to be kept under observation and an abrasion; the injured was taken to a private facility Hospital where he was admitted on 16.06.2022 and discharged on 20.06.2022 and in the case summary prepared on 29.06.2022, the doctor has mentioned an entry wound and an exit wound, both on the front side of the chest.

14. Without making observation which may affect the merit of the case, I am of the view that the aforesaid facts are sufficient for making out a case for enlargement of the applicant on bail.

15. In light of the preceding discussion and without making any observation on the merits of the case, the instant bail application is **allowed**.

16. Let the applicant **Ghanshyam Pandit** be released on bail in Case Crime No. 342 of 2022, under Sections 147, 148, 149, 323, 307 IPC, Police Station Sadar Bazar, District Saharanpur on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below, subject to the following conditions:-

- (i) The applicant will not tamper with the evidence during the trial.
- (ii) The applicant will not influence any witness.
- (iii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant shall not directly or indirectly make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court to any police officer or tamper with the evidence.

17. In case of breach of any of the above condition, the prosecution shall be at liberty to move an application before this Court seeking cancellation of the bail.

18. Before parting with the case, this Court is constrained to take note of the fact that although in the medico legal examination of the injured person conducted in the Government Hospital the doctor has reported two lacerated wounds measuring 1.0 c.m. X 1.0 c.m., on upper part of chest, 3.0 c.m. away from left nipple, muscle deep and second measuring 16.0 X 0.5 c.m., over left side of the chest 5.0 c.m. below left nipple, muscle deep, in the case summary prepared by a private Doctor on 29.06.2022, it has been mentioned that the injured had been admitted to the private Hospital on 16.06.2022 and he was discharged from the Hospital on 20.06.2022 and he had been injured by gun shot and was having an entry wound and an exit wound, both on the front side of the chest. Dr. Lalit Kaushik has given a statement during investigation that the injured had two gun shot wounds, entry point of the bullet was above the left nipple and an exit point of the bullet was below the left nipple. Dr. Imran who has prepared the supplementary report has also given a similar statement. No entry wound or exit wound has been reported on any part of the body, except on the front side of the chest. Prima facie, it appears to be inherently improbable that the bullet which enters from the front side of the chest would cause an exit wound on the front side of the chest itself and it appears that the aforesaid doctors have preponderated a false medical report in collusion with the injured person, so as to cause wrongful harm to the accused persons.

19. The aforesaid facts, prima facie, raise a serious suspicion regarding the conduct of Dr. Lalit Kaushik and Dr. Imran of VBROS Hospital, who have examined and treated the injured Raman Chaudhary. Therefore, this Court thinks it appropriate to direct the Medical Council of India to conduct an inquiry into the conduct of the aforesaid Doctors, namely, Dr. Lalit Kaushik and Dr. Imran of V-Bros Hospitals, Delhi Road, (Opp. Regency Garden), Saharanpur and to take suitable action against them pursuant to the enquiry report.

20. Let a copy of this order be sent to the Registrar(compliance) of this Court for ensuring compliance of this order.