

SC NO. 227/2023
STATE VS. MOHD. AZAD ALAM
FIR NO. 1116/2022
PS: Dabri
U/S. 307/34 IPC
CNR No. DLSW01-003553-2023

09.04.2024

File taken up today on an application under Section 439 Cr.P.C moved on behalf of the applicant / accused Mohd. Azad Alam for grant of bail.

Present: Sh. Brijesh Kumar, Ld. Addl. PP for the State.
Mohd. Naseem Khan, Ld. counsel for applicant / accused.
IO/SI Naresh Kumar is also present and he has filed the reply. Copy supplied.

1. It is submitted by Ld. counsel for the applicant / accused that applicant / accused has been falsely implicated in the present case and is languishing in custody since 25.12.2022. It is further submitted by Ld. counsel for the applicant/accused that the applicant / accused is a young person aged about 23 years and has extended his cooperation in the investigation and no purpose would be served by keeping the applicant / accused in custody anymore and hence, it is requested that applicant / accused be granted bail.

2. On the other hand, Ld. Addl. PP for the state has argued on the present application and opposed the same.

3. The record reveals that the the present case was registered on the allegations that on 24.12.2022, accused Mohd. Nurshid Alam

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held the complainant namely Abdul Samad and the present applicant / accused namely Mohd. Azad Alam stabbed the knife in his abdomen and a charge under Section 307/34 IPC was framed against the accused persons on 25.05.2023 and matter was fixed for prosecution evidence.

4. The record reveals that till date, only 1 witness has been examined out of 10 witnesses (as mentioned in the list of witnesses) who is the complainant in the present matter. It is a matter of record that PW-1 Sh. Abdul Samad i.e complainant Abdul Samad in the examination-in-chief conducted on 26.09.2023 has supported the case of the prosecution and identified accused persons namely Azad and Nurshid and identified the case property i.e knife (from the sketch of the knife) and further examination was deferred for want of case property (as the same had gone to FSL). In his cross-examination (although which was conducted on 01.04.2024), he has taken a U-turn and specifically deposed in his cross-examination and did not identify the case property i.e clothes and metallic knife and was turned hostile and cross-examined by the Ld. Addl. PP for the State. In his cross-examination, he has specifically deposed that many persons gathered were gathered at the spot and they also mishandled him. This witness admitted as correct that both the accused persons were involved in the incident, however, they had not stabbed him with the sharp object. Even, on the re-examination by the

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Ld. Addl. PP for the State that earlier, he identified the accused persons at the instance of the IO. The record further reveals that this witness has explicitly deposed in his cross-examination by Ld. Addl. PP for the State that he identified the accused persons being the residents of the same locality and not identified them as the accused persons being involved in the incident.

5. Without commenting upon the merits of the case and considering the fact that the applicant/accused is languishing in custody 25.12.2022 and trial of the case will take long time, **the present application stands allowed**. The applicant is hereby granted bail on furnishing personal bond in sum of Rs.15,000/- with one surety of like amount to the satisfaction of this Court. It is made clear that the State would be at liberty to file application for cancellation of the bail of the applicant, if present applicant involves himself in the similar nature of offence.

6. Nothing stated herein which shall tantamount to expression of opinion on merits of case and whatever has been stated is only for the purpose of deciding the present application. **Application stands disposed of accordingly.**

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7. Re-notify the matter for the date already fixed i.e **09.09.2024**. Copy of this order be given dasti to Ld. counsel for applicant / accused. Copy of this order be also sent to Jail Superintendent for information and compliance.

(Deepak Wason)
ASJ-04: South-west District:
Dwarka Courts: New Delhi
09.04.2024