

**Court No. - 69**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 33226 of 2024

**Applicant :-** Shahrukh

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Amar Nath Tiwari,Raj Kumar Chauhan,Rakesh Kumar Singh

**Counsel for Opposite Party :-** G.A.

**Hon'ble Ashutosh Srivastava,J.**

Heard learned counsel for the applicant, learned AGA for the State-respondents and perused the record.

This bail application under Section 483 of Bharatiya Nagarik Suraksha Sanhita, 2023 has been moved on behalf of accused-applicant, Shahrukh, seeking enlargement on bail in Case Crime No. 463 of 2024, under Sections 298, 299, 302, 109 (1) and 61 (2) of the Bharatiya Nyaya Sanhita, 2023, Police Station Izzatnagar, District Bareilly.

Learned counsel for the applicant argued that the accused-applicant is innocent. He has been falsely implicated in this very case crime number and is languishing in jail since 22.7.2024. He has no criminal antecedent and there is no likelihood of his fleeing from course of justice or tampering with evidence in case of release on bail.

Learned counsel for the applicant contends that allegation of destruction of goddess statue in the temple has been levelled against the applicant. Learned counsel for the applicant contends that applicant was not named in the FIR. However, later on, applicant was falsely implicated in the present case. Learned counsel for the applicant contends that ruptured and destructed statues have never been recovered by the concerned investigating officer. Learned counsel for the applicant contends that brother of the applicant, namely, Sajid Khan has moved an application before the SSP Bareilly on 23.7.2024 that his brother Sharukh was present at the house at the time of alleged incident and he has gone to market from the house at about 8:30 PM for Mandi, which is very clear from the CCTV Footage.

Learned AGA has vehemently opposed the prayer for bail by submitting that name of applicant surfaced on record on the basis of statement made by eye witness Anita and Ram Kishan Sharma. Learned AGA submits that applicant along with co-accused was involved in the destruction of idol of Lord Shiv's family. When, complainant made hue and cry, applicant and co-accused Ashrad managed to escape from the spot. However, co-accused Akram was apprehended from the spot. While escaping from the spot, accused Ashrad proclaimed "*Sharukh Jaldi Bhag Nahi To Hum Pakde Jayange*". Learned AGA contends that initially applicant managed to escape from the spot, but later on he was apprehended by the Police and put behind the bar. Learned AGA submits that applicant along with co-accused has given knife blow upon the husband of eye witness, namely, Ram Kishan (Temple Priest), with intention to kill him, but somehow he escaped. Learned AGA submits religious sentiments has been flared up by the applicant.

I have heard learned counsel for the applicant, learned AGA for the State and perused the record.

Perusal of the record reveals that at first instance applicant was involved in destruction of idol of Lord Shiva's family and tried to kill Ram Kishan (Priest of Temple) with knife. The police has also recovered the alleged knife from the bushes. The destruction of idol of Lord Shiva's family was made in the Holy Savan month with intention to disturb the communal harmony. Offences of the kind that have a tendency to promote hatred between classes of people or communities, have to be put down with a heavy hand. These offences cannot be permitted to flourish in society by adopting a soft-peddalling approach at the cost of widespread damage to the community and to the sentiments of the people.

In view of above, the Court is not inclined to enlarge the applicant on bail. The bail application lacks merit and is accordingly ***rejected***.

**Order Date :- 16.10.2024**

Ravi Prakash

(Ashutosh Srivastava, J.)