

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 13152 of 2021

Applicant :- Nankauna And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Kaushal Kishor, Bhanu Pratap Singh, Bijay Kumar Srivastava

Counsel for Opposite Party :- G.A., Pawan Kumar Prajapati, Sudhir Kumar Agarwal

Hon'ble Sameer Jain, J.

1. Heard Sri Kaushal Kishor & Sri Bijay Kumar Srivastava, learned counsel for the applicants, Sri Pradeep Kumar, learned AGA for the State-respondent and Pawan Kumar Prajapati, learned counsel for the informant.
2. The instant application has been filed seeking release of the applicants on bail in Case Crime No.66 of 2020, under Sections 147, 148, 149, 304, 323, 504, 336, 325 IPC, Police Station Rajapur Naraini, District Banda, during pendency of the trial in the court below.
3. F.I.R. of the present case was lodged against applicants and others and according to the F.I.R., applicants and other accused persons were abusing the villagers and thereafter they started swinging spade and they were also armed with lathi and due to swinging of the spade, the brother of the informant sustained injuries and died.
4. Learned counsel for the applicants further submitted that it is a case of accidental death and applicants were not having any intention to cause death of the deceased and even as per the prosecution case, at the time of swinging of the spade, suddenly the spade hit the deceased and he sustained injuries and died.

5. He further submitted that applicants are not having any criminal history and they are languishing in jail in the present matter since 25.05.2020 i.e. for almost three and a half years, therefore, they may be released on bail.

6. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicants.

7. I have heard learned counsel for both the parties and perused the record of the case.

8. Considering the fact that due to swinging of the spade, deceased sustained injuries and died and applicants are not having any criminal history and they are languishing in jail in the present matter since 25.05.2020 i.e. for almost three and a half years, in my view, applicants are entitled to be released on bail.

9. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is allowed.

10. Let the applicants- Nankauna and Babu, be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicants shall appear before the trial court on the dates fixed, unless their personal presence is exempted.

(ii) The applicants 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 or any police officer or tamper with the evidence.

(iii) The applicants shall not indulge in any criminal and anti-social activity.

11. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for

cancellation of the bail of the applicants.

12. It is clarified that the observations made herein are limited to the facts brought in by the parties pertaining to the disposal of bail application and the said observations shall have no bearing on the merits of the case during trial.

Order Date :- 18.10.2023

Zafar