

**Court No. - 78**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 15411 of 2023

**Applicant :-** Phoolchandra Verma

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

**Counsel for Applicant :-** Siddharth Saran, Mohan Singh, Raman Pandey

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

**Hon'ble Raj Beer Singh, J.**

1. Heard learned counsel for the applicant-accused, learned A.G.A. for the State and perused the record.
2. The present third bail application has been filed by the applicant-accused in case crime No.92 of 2021, under Sections 147, 148, 302, 323, 504, 188 IPC, P.S. Gaur, District Basti, with the prayer to enlarge the applicant-accused on bail. The first bail application of applicant-accused was rejected by this Court vide order dated 3.12.2021 passed in Criminal Misc. Bail Application No.41929 of 2021 and the second bail application of applicant-accused was rejected by this Court vide order dated 29.9.2022 passed in Criminal Misc. Bail Application No.23318 of 2022.
3. It has been argued by the learned counsel for the applicant that applicant is innocent and he has been falsely implicated in this case. The applicant is not named in the first information report, which was lodged against five named co-accused persons and some unknown persons and that in the FIR only general role of assaulting the deceased and injured persons has been attributed to all the accused persons. Co-accused Somaie Ram Verma and Mukesh Verma have been granted bail by co-ordinate Bench of this Court, copies of which, are available on

record. It is further submitted that injury no.1, shown to deceased, is incised wound while no sharp edged weapon was used and thus, the injury no.1, sustained by the deceased, has not been explained by the prosecution. Referring to postmortem report of deceased, it was submitted that deceased has not suffered fracture on the skull or on parietal or temporal region and that the injury no.2 i.e. multiple abraded contusion does not cause any internal damage and in the similar way injury no.3 is contused swelling and thus, no case under Section 302 IPC is made out. In his statement under Section 161 Cr.P.C., first informant has changed the entire version and introduced a number of new accused persons and now total 19 accused persons have been assigned the role of participating in commission of alleged offence.

4. It has been further submitted that the second bail application of applicant-accused was rejected by this Court vide order dated 29.09.2022 and the trial court was directed to expedite the trial and to decide the same preferably within a period of one year but the trial has not been concluded so far. It was submitted that all the eye-witnesses have already been examined and they did not support the prosecution version and turned hostile. Learned counsel has referred the statement of P.W.1 Gulam Hussain, P.W.2 Samsun Nisha and P.W.3 Fareeda Khatoon and pointed out that they did not support the prosecution version and turned hostile. Lastly, it was submitted that the applicant-accused is languishing in jail since 12.08.2021, having no criminal history. It was also stated that a few days back the father of applicant has passed away and his '*terahavi*' is going to be held on 02.12.2023. It was further submitted that in case the applicant-accused is released on bail, he will not misuse the liberty of bail and will co-operate in trial.

5. Learned A.G.A. has opposed the prayer for bail and

submitted that first bail application and the second bail application of applicant-accused have already been rejected by this Court on merits. However, it could not be disputed that since then during trial, the eye-witnesses did not support the prosecution version and turned hostile.

6. Considering the submissions of learned counsel for the parties, statements of witnesses examined before the trial court, period of custody and all attending facts and circumstances of the case, without expressing any opinion on the merits of the case, the Court is of the view that a case for bail is made out. Hence, the third bail application is hereby **allowed**.

7. Let the applicant-accused **Phoolchandra Verma** involved in aforesaid crime be released on bail on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions:

(i) The applicant-accused shall not tamper with the evidence during the trial.

(ii) The applicant-accused shall not pressurize/ intimidate the prosecution witness.

(iii) The applicant-accused shall appear before the trial court on the date fixed, unless personal presence is exempted.

(iv) The applicant-accused shall not commit an offence similar to the offence of which he is accused, or suspected, of the commission of which he is suspected.

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

8. In case of breach of any of the above condition, the Court concerned shall be at liberty to cancel bail of applicant-accused

in accordance with law.

**Order Date :- 1.12.2023**

Neeraj