

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 21868 of 2022

Applicant :- Sushil Singh@ Mintu Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Vineet Kumar Yadav, Manoj Kumar Singh, Saroj Kumar Dubey

Counsel for Opposite Party :- G.A., Rajesh Maurya

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Manoj Kumar Singh, learned counsel for the applicant, Sri Rajesh Maurya, learned counsel for the informant and Sri Suresh Bahadur Singh, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 28 of 2022, under Section 302 IPC, Police Station Phulpur, District Azamgarh during pendency of the trial.
4. FIR of the present case was lodged against applicant and his brother by his Bhabhi and according to the FIR on 17.01.2022 on the exhortation of his elder brother, applicant made assault upon the father of the informant through spade and due to the assault made by the applicant, father of the informant sustained serious injuries.
5. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Section 307 IPC but after the death of the injured, case was converted under Section 302 IPC. He further submits that although as per informant her brothers were eye witnesses and applicant made assault upon the deceased through spade but applicant is Dever of the informant and he has falsely been implicated in the present matter.
6. He further submits that applicant was having no occasion to made assault upon the father of the informant as partition of the property has already taken place. He next submits that apart from the informant and her brothers, there is no independent eye witnesses of the incident. He next submits that applicant is

not having any criminal history and in the present matter he is in jail since 28.01.2022 i.e. for more than one and half years.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that it is a case of direct evidence and informant is Bhabhi of the applicant and she categorically stated that applicant gave spade blow on the head of the deceased and post mortem report also corroborates the version of the FIR, therefore, applicant should not be released on bail.

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

9. Considering the fact that informant and number of other witnesses are also eye witnesses and they have stated that applicant made assault upon the father of the informant through spade and post mortem report of the deceased also corroborates the version of the FIR, in my view, applicant is not entitled to be released on bail.

10. Accordingly, the instant bail application is rejected.

11. 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 :- 31.10.2023

AK Pandey