

Court No. - 78

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 23315 of 2023

Applicant :- Paremesh Kumar Mishra @ Balau

Opposite Party :- State of U.P.

Counsel for Applicant :- Kuldeep Kumar Mishra

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 second bail application has been filed by the applicant-accused in case crime No. 158/2021, under Sections 147, 148, 149, 452, 323, 504, 506, 427, 304 IPC, police station Sarai Akil, District Kaushambi 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 8.3.2022, passed in Criminal Misc. Bail Application No. 30545 of 2021.
3. It has been argued by the learned counsel for the applicant-accused that applicant-accused is innocent and he has been falsely implicated in this case. The first information report was lodged against 17 named accused persons and 50 unknown persons, alleging that due to Pradhan election enmity, the co-accused persons have assaulted son of informant and they have also destroyed household articles of the informant. Learned counsel submitted that only general and omnibus role has been assigned to the accused persons. No specific role was assigned to the applicant. The deceased has passed away after 50 days of the incident and the cause of death was shown septic shock due to ante-mortem injuries. It was pointed out that only two injuries were shown on the body of deceased and that there is no such

version that which of the accused is author of the same. Referring to the postmortem report, it has been submitted that it appears that deceased has suffered death due to combined effect of injuries as well as of lack of treatment. Learned counsel submitted that even in statement of deceased, no specific role has been assigned to the applicant. It was also pointed out that deceased has inter-alia stated that in the alleged incident he has fallen down and sustained injuries on his head and thus, it appears that he has sustained injuries due to fall on the ground.

4. It has been further submitted that the first bail application of applicant-accused was rejected by this Court vide order dated 8.3.2022, passed in Criminal Misc. Bail Application No. 30545 of 2021 and after that similarly placed co-accused Vimlesh and Lavkush Dubey @ Raj Kumar have already been granted bail. Lastly, it is submitted that the applicant-accused is languishing in jail since 06.06.2021, and thus, he has already undergone the detention of more than two years and that the applicant has no criminal history. 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 of applicant-accused has already been rejected on merits. The applicant is named in the first information report. The statement of deceased was referred wherein, it was mentioned that applicant and co-accused persons were involved in the incident. However, it could not be disputed that similarly placed co-accused Vimlesh and Lavkush Dubey @ Raj Kumar have already been granted bail.

6. Considering the submissions of learned counsel for the parties, nature of allegations, 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 second bail application is hereby **allowed**.

7. Let the applicant-accused **Paremesh Kumar Mishra @ Balau** 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 :- 17.11.2023

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