

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 27055 of 2023

Applicant :- Sonu

Opposite Party :- State of U.P.

Counsel for Applicant :- Yakub Ansari

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Abrar Ahmad, Advocate, holding brief of Sri Yakub Ansari, learned counsel for the applicant, Sri Devendra Nath Mishra, learned counsel for the State and perused the material on record.

3. This second bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant **Sonu**, seeking enlargement on bail during trial in connection with Case Crime No. 190 of 2021, under Sections 304, 323, 504, 506 IPC, registered at P.S. Robertsganj, District Sonbhadra.

4. The first bail application of the applicant was rejected by this Court vide order dated 30.09.2021 passed in Crl. Misc. Bail Application No. 28472 of 2021 (Sonu Vs. State of U.P.).

5. Learned counsel for the applicant argued that after rejection of the first bail application of the applicant vide order dated 30.09.2021, co-accused Bhonu @ Manoj has been granted bail by a co-ordinate Bench of this Court vide order dated 19.04.2023 passed in Crl. Misc. Bail Application No. 40664 of 2022 (Bhonu @ Manoj Vs. State of U.P.), copy of the order is annexed as annexure 13 to the affidavit. Further, co-accused Fekan @ Suresh has also been granted bail by another co-ordinate Bench of this Court vide order dated 10.07.2023 passed in Crl. Misc. Bail Application No. 27130 of 2021 (Fekan @ Suresh Vs. State of U.P.), copy of the order has been produced before the Court which is taken on record. It is argued that looking to the same, the bail of the applicant be granted. He is in jail since 01.05.2021.

6. Per contra, learned counsel for the State opposed the prayer for

bail and argued that the first bail application of the applicant was rejected on merits by a detailed order by this Court. There is no fresh and new ground argued by learned counsel for the applicant.

7. After having heard learned counsel for the parties and perusing the records, it is evident that the first bail application of the applicant was rejected by this Court vide order dated 30.09.2021. The said order reads as under:-

"Heard Sri Dinesh Kumar Singh, learned counsel for the applicant, Sri Rakesh Chandra, learned counsel for the first informant, Sri Akhilesh Kumar Tripathi, learned counsel for the State and perused the material on record.

This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Sonu, seeking enlargement on bail during trial in connection with Case Crime No.190 of 2021, under Sections 304, 323, 504, 506 I.P.C., registered at Police Station Robertsganj, District Sonbhadra.

Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that general and omnibus allegations have been levelled against all the accused persons including the applicant who are total four in number. The deceased as per postmortem report died as a result of coma due to head injury and the author of the said injury is not known which is the injury no.1. The other injury is on the lower chest. Even in so far as the injuries of the other injured persons are concerned, there is no specification of the role whatsoever. There was motive to falsely implicate the applicant. It has also been pointed out that the applicant is not having any criminal history as stated in para 26 of the affidavit and is in jail since 1.5.2021.

Per contra learned counsel for the first informant and learned counsel for the State vehemently opposed the prayer for bail and argued that from the possession of the applicant a lathi has been recovered. Apart from one person who has died, there are four other injured persons namely Kalawati, Nand Kumar, Brijesh Kumar and Suresh Prasad. Even the injured persons have received serious injuries on their body. The bail application of co-accused Sagar has been rejected by coordinate Bench of this Court vide order dated 03.09.2021 passed in Criminal Misc. Bail Application No.26213 of 2021. The role of the applicant is identical to that of co-accused Sagar whose bail has been rejected.

After hearing the counsel for the parties and perusing the record, it is apparent that in the present case one person has lost his life and there are four injured persons who have received many injuries on their body and as such there is an eye-witness account of the incident. There is an allegation and applicant has been assigned role of participation in the incident.

Looking to the facts and circumstances of the case, I do not find it a fit case for bail, hence, the bail application is rejected.

The party shall file computer generated copy of such order downloaded from the official website of High Court Allahabad.

The computer generated copy of such order shall be self attested by the counsel of the party concerned.

The concerned Court/Authority/Official shall verify the authenticity of such computerized copy of the order from the official website of High Court Allahabad and shall make a declaration of such verification in writing."

8. In so far as the bail of co-accused Bhonu @ Manoj is concerned, the same is the second bail application of the said accused who has

been granted vide order dated 19.04.2023 on the ground of delay of trial. Co-accused Fekan @ Suresh has also been granted bail on the ground of parity of the order of co-accused Bhonu @ Manoj. Even therein merits have not been considered. In so far as the parity is concerned, the same is not binding on the Court. The same may have a persuasive value. The same has been held in detail in **Criminal Misc. Bail Application No. 42092 of 2020 (Dheeraj Kumar Shukla vs. State of U.P.)** in the order dated 06.07.2021 in paragraph 17. I do not find it a fit case for bail.

9. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

10. The bail application is, accordingly, ***rejected***.

Order Date :- 29.11.2023

M. ARIF

(Samit Gopal, J.)