

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 28625 of 2023

Applicant :- Indrajeet Rajbhar

Opposite Party :- State of U.P.

Counsel for Applicant :- Neeraj Srivastava, Dinesh Kumar Pandey, Manu Sharma, Rayoof Ali

Counsel for Opposite Party :- G.A., Ghan Shyam Yadav

Hon'ble Sameer Jain, J.

1. None appeared on behalf of the informant even in revised call, however, learned AGA for the State is present.
2. Heard Sri Dinesh Kumar Pandey, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 347 of 2022, under Sections 302 IPC & 4/25 Arms Act, Police Station- Dudhara, District- Sant Kabir Nagar, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and according to the FIR, on 04.09.2022 when brother of the informant was at the shop of one Mayaram Kotedar then applicant inflicted knife injury to him, due to which, he died.
5. Learned counsel for the applicant submitted that applicant is innocent and on the basis of false allegation, he has been made accused in the present matter and informant of the case is not an eye-witness and sole eye-witness of the present case is Amarnath Rajbhar and however, he stated against applicant but from his statement, it reflects that he did not witness the real incident.
6. He further submitted that informant of the case has appeared before the trial court as P.W. 1 and from his cross examination, it reflects that FIR of the present case is anti time. He further submitted that as per the allegation, when applicant was arrested then he confessed his guilt and from his possession one knife was recovered but on the knife no blood was found.

7. He further submitted that applicant is not having any criminal history and he is in jail since 05.09.2022 i.e. for last more than a year.

8. Per contra, learned AGA opposed the prayer for bail and submitted that it is a case in which, there is eye-witness account and eye-witness categorically stated that applicant inflicted knife injury to the deceased and post-mortem report of the deceased also corroborates his version, therefore, applicant should not be released on bail.

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

10. As per the allegation, applicant is the person, who inflicted knife injury to the deceased and incident has also been witnessed by one eye-witness and he also stated that applicant caused knife injury to the deceased and post-mortem report of the deceased also corroborates the prosecution story.

11. Further, however, applicant emphasized a lot on the statement of the informant recorded by the trial court but law is settled that analysis of the statement of witness recorded by the trial court, cannot be done at this stage.

12. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

13. Accordingly, without expressing any opinion on the merits of the case, the instant bail application is **rejected**.

14. 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 :- 14.12.2023

KK Patel