

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 43136 of 2021

Applicant :- Chandan

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Srivastava, Ajeet Kumar Singh, Surya Pratap Singh Parmar

Counsel for Opposite Party :- G.A., Ashok Kumar Shukla

with

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46783 of 2021

Applicant :- Sangam

Opposite Party :- State of U.P.

Counsel for Applicant :- Ankit Srivastava, Ajeet Kumar Singh, Surya Pratap Singh Parmar

Counsel for Opposite Party :- G.A., Ashok Kumar Shukla

Hon'ble Sameer Jain, J.

1. As both the bail applications are connected, therefore, both are being heard together and are being disposed of by this common order.

2. Heard Sri Ajeet Kumar Singh, learned counsel for the applicants; Sri Ashish Kumar Shukla, learned counsel for the informant and Dr. S.B. Maurya, learned AGA-I for the State-respondent.

3. The instant application has been filed seeking release of the applicants on bail in Case Crime No. 57 of 2021, under Sections 147, 148, 149, 504, 302 IPC, Police Station Sahatwar, District Ballia, during pendency of the trial in the court below.

4. FIR of the present case was lodged against the applicants and 17 others and according to the FIR on 26.4.2021 at the time of voting of election for members of Zila Panchayat applicants alongwith their 17 associates arrived at polling booth and made assault upon Ghanshyam and co-accused Praveen, Ravi Shanker, Deepak and Raju caught hold the deceased and thereafter applicants inflicted knife blows upon him and due to the assault made by applicants deceased i.e. Ghanshyam sustained fatal injuries and died at about

1:00 am in the night.

5. Learned counsel for the applicants submitted that on the basis of false allegation applicants have been made accused in the present matter and actually they never participated in the alleged crime.

6. He further submitted that although incident is said to have taken place on 26.4.2021 at about 5:30 pm but in spite of that FIR of the present case was lodged on 27.4.2021 at 10:20 hours next day and this fact clearly suggests that totally on the basis of false allegations after 17 hours applicants have been made accused in the present matter alongwith 17 others.

7. He further submitted that although in the FIR there are as many as 19 accused persons including applicants but in favour of 12 accused persons, final report has been submitted.

8. He further submitted that on 27.4.2021 at about 00:27 hours in the night police also lodged a FIR under sections 427 and 353 IPC against Deepak and Praveen, co-accused of the present matter and the FIR lodged by the police has been annexed as annexure-13 to the affidavit and from perusal of this FIR it reflects that it was lodged with regard to the minor offences alleged to have been committed by these two accused persons at 17:58 hours and in this FIR, there was not even a whisper of the present incident which alleged to have been occurred on 26.4.2021 at about 5:30 pm and from perusal of both the FIRs it appears that both the incidents were of village Chapiya and this fact clearly suggests that actually no such incident was occurred at village Chapiya during the course of voting.

9. He further submitted that although applicant Chandan is having criminal history of single case and applicant of connected case, namely, Sangam is having history of two other cases but their criminal history has been explained in their respective bail application.

10. He further submitted that in the present case applicants are in jail since 28.4.2021 i.e. for more than two and a half years and till date not even the testimony of PW-1 could be completely recorded and in the charge sheet there are as many as 24 witnesses.

11. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that there is specific allegation against the applicant that they inflicted knife injury to the deceased and post mortem of the deceased also

corroborates the version of the FIR and it is a case in which informant and other witnesses were eye witnesses and merely on the basis that as subsequent to the incident when FIR was lodged by the police then there is no whisper of the present case, it cannot be said that no incident occurred at 5:30 pm and therefore, the applicants should be released on bail.

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

13. Considering the fact that applicants were specifically named in the FIR and role of inflicting knife injury has been assigned to them and post mortem report of the deceased also suggests that he sustained knife injuries and there are eye witness account, I am not inclined to release the applicants on bail.

14. Accordingly, both the bail applications stand ***rejected***.

15. However, considering the fact that applicants are in jail for more than two and half years, trial court is directed to conclude the trial of the case within **nine months** from the date of production of certified copy of this order strictly as per provision of section 309 Cr.P.C. on day-to-day basis without granting any unnecessary adjournment to either of the parties, if there is no legal impediment.

16. 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 :- 1.11.2023

Ankita