

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44603 of 2021

Applicant :- Rajesh Prajapati

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar Singh, Anjani Kumar Rai, Ashok Kumar Singh, Habib Ahmad, Pratibha Singh, Rachna Dubey

Counsel for Opposite Party :- G.A., Ajay Kumar Patel, Atiqur Rahman Siddiqui

Hon'ble Sameer Jain, J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State and learned counsel for the applicant are present.

2. Supplementary affidavit filed today on behalf of the applicant is taken on record.

3. Heard Sri Anjani Kumar Rai, learned counsel for the applicant and Sri Santosh Nigam, learned AGA for the State.

4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 114 of 2021, under Section 302 IPC, Police Station Mungrabadshahpur, District Jaunpur during pendency of the trial.

5. FIR of the present case was lodged against applicant and two others and according to the FIR applicant along with his two other associates after entering in the house of the informant made assault upon him, his mother and also assaulted to his brother. It is further mentioned in the FIR that co-accused Rajan Singh gave rod blow to the brother of the informant and when the brother of the informant taken to the hospital then doctor declared him dead.

6. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and applicant did not participate in the instant crime and in the FIR it is specifically alleged that co-accused Rajan Singh gave rod

blow to the deceased but when the statement of the informant was recorded under Section 161 Cr.P.C. then he started making general allegation. He further submits that no specific allegation has been levelled against the applicant even in the statement of the mother of the informant.

7. He further submits that when mother of the informant appeared before the trial court then she was declared hostile. He further submits that even from the statement of the informant recorded by the trial court, the role of causing injury to the deceased has been specifically attributed to co-accused Rajan Singh. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 20.06.2021 i.e. for more than two years.

8. Per contra, learned AGA opposed the prayer for bail and submitted that applicant is named in the FIR and informant and his mother, who were also injured of the case, also stated in their statement recorded under Section 161 Cr.P.C. that applicant also participated in the incident and even if during trial mother of the informant declared hostile then also no benefit can be extended in favour of applicant, 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. Considering the fact that statements recorded before the trial court cannot be analyzed at this stage and in the FIR and in the statement of witnesses recorded under Section 161 Cr.P.C. the role of making assault also assigned to the applicant and post mortem report also corroborates the version of the FIR, I am not inclined to released the applicant on bail.

11. Accordingly, the instant bail application is rejected.

12. 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 :- 18.10.2023
AK Pandey