

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49439 of 2020

Applicant :- Saurabh

Opposite Party :- State of U.P.

Counsel for Applicant :- Deepak Rana, Balbeer Singh, Ravi Prakash Srivastava

Counsel for Opposite Party :- G.A., Gaurav Sharma

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 Ravi Prakash Srivastava, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 19 of 2020, under Sections 323, 304 IPC, Police Station- Jagdishpura, District- Agra, during pendency of the trial in the court below.
4. FIR of the present case was lodged on 09.01.2020 against applicant under Sections 323, 304 IPC and according to the FIR, on 30.12.2019, applicant has taken the son of the informant alongwith him and assaulted him and on 09.01.2020 the son of the informant died in the hospital during his treatment.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and although, FIR of the present case was lodged on 09.01.2020 but on 31.12.2019 the *bhabhi* of the deceased lodged a NCR against applicant and two others and this fact clearly suggests that subsequently only on the basis of false allegation, alone applicant has been made accused in the present matter.
6. He further submitted that from perusal of the post-mortem report of the deceased, it appears that deceased died due to single head injury and there is no evidence on record, which can show that applicant is the person, who caused this injury to him.

7. He further submitted that it is a case under Sections 304 IPC and applicant is in jail since 10.01.2020 i.e. for almost four years and he is not having any criminal history.

8. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

10. Considering the fact that present matter is of Section 304 IPC and as per the post-mortem report, deceased died due to solitary head injury and applicant is in jail for almost four years, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant- **Saurabh** be released on bail in the aforesaid case on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions:-

(i) The applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

(ii) The applicant shall not directly or indirectly, make inducement, threat or promise to any person acquainted with the facts of the case so as to dissuade him from disclosing such facts to the Court or any police officer or tamper with the evidence.

(iii) The applicant shall not indulge in any criminal and anti-social activity.

13. In case of breach of any of the above condition, the prosecution will be at liberty to move an application before this Court for cancellation of the bail of the applicant.

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 :- 3.11.2023

KK Patel