

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 32927 of 2023

Applicant :- Lakhan Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Kamlesh Kumar Dwivedi, Saurabh Dwivedi

Counsel for Opposite Party :- G.A., Prasoon Kumar

Hon'ble Sameer Jain, J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri K.K. Dwivedi, learned counsel for the applicant, Sri Shantanu Pandey, Advocate, holding brief of Sri Prasoon Kumar, learned counsel for the informant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 426 of 2017, under Sections 302, 34 IPC, Police Station- Khandauli, District- Agra, during pendency of the trial in the court below.
4. FIR of the present case was lodged against applicant and two others and according to the FIR, applicant and two others made assault upon the father of the informant through cricket bat and due to assault made by them, his father died.
5. Learned counsel for the applicant submitted that totally on the basis of false allegation, applicant was made accused in the present matter and during investigation his presence and presence of co-accused Suresh Chand were found false and charge sheet was submitted only against co-accused Vikesh but during trial when informant appeared before the trial court then on the basis of his testimony, applicant alongwith co-accused Suresh Chand was summoned under Section 319 Cr.P.C. He further submits, co-accused Vikesh has been released on bail and co-accused Suresh Kumar, who was summoned alongwith the applicant under Section 319 Cr.P.C., has also been released on bail and both the bail orders have been annexed alongwith the instant bail application.
6. He further submitted that applicant was although, having criminal history of two other cases but both the case were of Sections 419, 420 IPC and in one case, after investigation, final report was submitted and in another case, applicant has already

been acquitted and in the present matter, he is in jail since 22.06.2023.

7. 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.

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

9. Considering the argument advanced by learned counsel for the applicant and the fact that applicant was summoned under Section 319 Cr.P.C. and similarly placed co-accused Suresh Chand has been released on bail, in my view, applicant is also entitled to be released on bail.

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

11. Let the applicant- **Lakhan Singh** 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.

12. 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.

13. 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 :- 30.10.2023

KK Patel