

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 35345 of 2023

Applicant :- Pravind Giri @ Pravin Giri

Opposite Party :- State of U.P.

Counsel for Applicant :- Kameshwar Singh, Sudhanshu Kumar Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Rejoinder affidavit filed today on behalf of the applicant is taken on record.
2. Heard Sri Kameshwar Singh, learned counsel for the applicant and Sri Suresh Bahadur Singh learned AGA for the State-respondent.
3. The instant application has been filed seeking release of the applicant on bail in Case Crime No.152 of 2023, under Sections 323, 504, 506, 304 IPC, Police Station Sikanderpur, District Ballia, during pendency of the trial in the court below.
4. FIR of the present case was lodged against the applicant and three others on 4.5.2023 under sections 323, 504, 506 IPC and according to the FIR, applicant along with his associates made assault through lathi and danda upon the son of the informant.
5. Learned counsel for the applicant submitted that initially, FIR of the present case was lodged under sections 323, 504 and 506 IPC but unfortunately due to septicemia injured i.e. son of the informant died on 9.6.2023 i.e. after about a month and thereafter, case was converted under section 304 IPC.
6. He further submitted that on the basis of general allegation of assault, applicant has been made accused in the present case alongwith three others and surprisingly, although injured died after about one month of the incident but during investigation, Investigating Officer did not even record his statement.
7. He further submitted that applicant is having no criminal history and he is in jail in the present matter since 11.06.2023. He further submits that co-accused Sani Gond has already been released on bail by this Court vide order dated 26.09.2023 passed in Criminal Misc. Bail Application No. 41716 of 2023 and case of applicant is at par with him.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant. He further could not dispute the fact that co-accused Sani Gond has already been released on bail and case of applicant is at par with him.

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

10. Considering the fact that deceased died after one month of the alleged incident due to septicemia and from perusal of the post mortem report, it appears that he sustained injury on his head and there is no evidence that applicant is author of this injury and co-accused Sani Gond has already been released on bail and case of applicant is at par with him, 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- **Pravind Giri @ Pravin Giri**, 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 :- 28.10.2023
AK Pandey