

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 37922 of 2023

Applicant :- Pitamber

Opposite Party :- State of U.P.

Counsel for Applicant :- Nagendra Kumar Singh

Counsel for Opposite Party :- G.A., Dharmendra Kumar Patel

Hon'ble Sameer Jain, J.

1. Heard Sri Nagendra Kumar Singh, learned counsel for the applicant and Sri Santosh Nigam, learned AGA for the State.
2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 0345 of 2023, under Sections 147, 452, 323, 504, 304 IPC, Police Station Soron, District Kasganj during pendency of the trial.
3. FIR of the present case was lodged against applicant and six others and according to the FIR applicant and other accused persons on 22.06.2023 after entering in the house of Rajpal made assault upon him and due to the assault made by them he died on 27.06.2023.
4. Learned counsel for the applicant submitted that on the basis of general allegation applicant has been made accused in the present matter along with six others. He next submits that although post mortem report suggests that deceased sustained six injuries but all the injuries were abrasion and as per doctor he died due to heart failure.
5. He further submits that co-accused Vijay Pal has been released on bail by the co-ordinate Bench of this Court vide order dated 28.08.2023 passed in Criminal Misc. Bail Application No. 37818 of 2023. He placed the bail order of co-accused Vijay Pal during the course of argument, which is taken on record and marked as 'A'. He further submits that case of applicant is at par with co-accused Vijay Pal. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 04.07.2023.
6. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

8. Although, applicant was named in the FIR along with others but only general role has been assigned to all the accused persons including applicant, who were total seven in numbers. Further, although from the perusal of the post mortem report, it reflects that deceased sustained as many as six injuries but all the injuries were abrasions and doctor opined that deceased died due to heart failure.

9. Further, co-accused Vijay Pal has been released on bail by the co-ordinate Bench of this Court and case of applicant is at par with him and applicant is not having any criminal history and in the present matter he is in jail since 04.07.2023.

10. Therefore, considering the facts and circumstances of the case discussed above, 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 - **Pitamber** 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 :- 27.10.2023
AK Pandey