

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 39938 of 2023

Applicant :- Sanjeevkumar @ Tinku

Opposite Party :- State of U.P.

Counsel for Applicant :- Ghan Shyam,Vivek Mishra

Counsel for Opposite Party :- G.A.,Purushottam Dixit

Hon'ble Sameer Jain,J.

1. Heard Sri Ghan Shyam, learned counsel for the applicant, Sri Purushottam Dixit, learned counsel for the informant and Sri Jhamman Ram, learned AGA-I, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.199 of 2023, under Sections 147,149, 304,323,504 and 506 IPC, Police Station Bharthana, District Etawah during pendency of the trial.
3. FIR of the present case was lodged against the applicant and six others and according to the FIR, applicant and other co-accused persons made assault upon the husband of the informant and due to assault made by them, the husband of informant sustained injuries and died.
4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and applicant never participated in the alleged incident.
5. He further submits that although as per allegation applicant and six others assaulted the deceased but the post mortem report of the deceased suggests that he died due to Cardiac Arrest.
6. He further submits that although applicant is having two

previous criminal history to his credit and in one case of Section 307 IPC he has also been convicted but he has been released on bail by this Court during pendency of criminal appeal and other case is of Sections 452 and 323 IPC and the criminal history of applicant has been explained in the instant bail application.

7. He further submits that co-accused-Aditya Tiwari @ Pinku Tiwari has already been released on bail by Coordinate Bench of this Court vide order dated 5.10.2023 passed in Criminal Misc.Bail Application No.38518 of 2023 and the case of applicant is at par with him. He placed the bail order of co-accused Aditya Tiwari @ Pinku Tiwari during the course of argument which is taken on record and marked as 'A'.

8. He further submits that applicant is in jail in the present matter since 24.7.2023.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant is previous convict but he could not dispute the fact that deceased died due to Cardiac Arrest and bail application of co-accused Aditya Tiwari @ Pinku Tiwari has been allowed by this Court on merit.

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

11. Although it appears that applicant is previous convict for offence under Section 307 IPC and his appeal is pending but from the record it reflects that this Court during appeal has released him on bail.

12. Further, although as per allegation applicant and six others

assaulted the deceased but post mortem report suggests that he died due to Cardiac Arrest.

13. Further, co-accused Aditya Tiwari @ Pinku Tiwari has been released on bail by Coordinate Bench of this Court and on merit case of applicant is at par with him and further applicant is in jail since 24.7.2023.

14. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

16. Let the applicant-**Sanjeev Kumar @ Tinku** 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.

17. 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.

18. 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 :- 13.10.2023
SKM