

Neutral Citation No. - 2023:AHC:208221

Reserved On:- 27.10.2023

Delivered On:-31.10.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 40144 of 2023

Applicant :- Dilshad Alias Irshad

Opposite Party :- State of U.P.

Counsel for Applicant :- Shubham Singh, Manoj Mishra

Counsel for Opposite Party :- G.A., Mohd. Shoeb Khan

Hon'ble Siddharth, J.

1. Heard Sri Manoj Mishra, learned counsel for the applicant; Sri Mohd. Shoeb Khan, learned counsel for informant and the learned A.G.A. for the State.
2. The instant bail application has been filed on behalf of the applicant, **Dilshad Alias Irshad**, with a prayer to release him on bail in **Case Crime No. 333/2023, under Sections- 147, 302, 120-B, 506, 34 I.P.C., Police Station – Gorakhnath, District -Gorakhpur.**
3. There is allegation in FIR that the brother of the informant had love affair with co-accused, Sadiya Ansari, and six months ago they had married and were living on the ground floor of a five floor house. On the upper floor of the house tenants were residing. Co-accused, Sadiya Ansari, had illicit relationship with co-accused, Abhishek Choudhri and Arshad, and dispute used to took place between the brother of the informant and co-accused, Sadiya Ansari, on account of her illicit relationship. On 25.05.2023 all the accused persons in pursuance of a conspiracy entered into the house of his brother and murdered him by causing knife and sword injuries.
4. Learned counsel for applicant has submitted that applicant has been falsely implicated in this case on the basis of suspicion only. He had no concern with co-accused, Sadiya Ansari, and had no motive to commit alleged offence. In the CCTV footage collected by the investigating officer, there is nothing which him may implicate the applicant. Co-accused, Abhishek Choudhri, has named in his statement recorded under section 161 Cr.P.C, but he has not stated anything against the applicant. The applicant has been falsely implicated in this case and he has no criminal history to his credit. He is languishing in jail since 29.05.2023.

5. Learned AGA and learned counsel for informant have vehemently opposed the bail application and they have submitted that although the applicant was not named in FIR, but he has been identified from the CCTV footage alongwith the weapons and from the shoes he was wearing which was recovered from the place of incident. The applicant has been named by co-accused, Abhishek Choudhri and Irfan. Bloodstained, sword, knife and cover of the sword were also recovered from the place of incident.

6. After hearing the rival contentions, this Court finds that in the confessional statements of the co-accused name of the applicant has surfaced. He has been assigned definite role in commission of the alleged offence. The applicant may not be having motive, but his involvement with other co-accused, who were his friends is clear. The co-accused, Sadiya Ansari, is the main accused, who hatched conspiracy for getting her husband murdered with the help of co-accused and the applicant. Her bail application is being rejected by order of date.

7. The bail application is accordingly, **rejected**.

8. The trial court is directed to conclude the trial against the applicant as expeditiously as possible, preferable within a period of one year from the date of production of certified copy of this order.

Order Date :-31.10.2023

Abhishek