

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 55622 of 2021

Applicant :- Banti

Opposite Party :- State of U.P.

Counsel for Applicant :- Ashok Kumar Singh, Chandra Prakash Pandey

Counsel for Opposite Party :- G.A., Pawan Kumar Shukla

Hon'ble Sameer Jain, J.

1. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
2. Heard Sri C.P. Pandey, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 1758 of 2021, under Sections 304 IPC, Police Station Indirapuram, District Ghaziabad during pendency of the trial.
4. FIR of the present case was lodged against applicant on 22.07.2021 at 20.46 hours under Section 304 IPC and according to the FIR on 21.07.2021 at about 9.30 PM in the night under intoxication applicant caused injury upon the father of the informant through vegetable crate and due to the assault made by the applicant, father of the informant sustained injuries and during treatment on 22.07.2021 in the after noon he died.
5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and even from the perusal of the FIR and the statements of the witnesses, it appears that applicant was not having any intention to cause death of the deceased and under intoxication suddenly he made assault upon the deceased through vegetable crate.
6. He further submits that even post mortem report of the deceased suggests that deceased sustained only single injury. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 24.07.2021.
7. Per contra, learned AGA 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 fact that from the record it could not be reflected that applicant was having any intention to cause the death of the deceased and he is facing trial under Section 304 IPC and he is in jail for more than two years, in my view, applicant is 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 - **Banti** 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 :- 7.11.2023

AK Pandey