

**Court No. - 70**

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 51695 of 2022

**Applicant :-** Tejpal

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Gaurav Pundir, Ajay Kumar Vashistha

**Counsel for Opposite Party :-** G.A., Digvijay Singh

With

**Case :-** CRIMINAL MISC. BAIL APPLICATION No. - 51573 of 2022

**Applicant :-** Ajay @ Nannhey

**Opposite Party :-** State of U.P.

**Counsel for Applicant :-** Gaurav Pundir, Ajay Kumar Vashistha

**Counsel for Opposite Party :-** G.A., Digvijay Singh, Sudhir Kumar Singh

**Hon'ble Sameer Jain, J.**

1. As, both the instant bail application arising out of same case crime number, therefore, both bail applications are being disposed off by the common order.
2. Case called out in revised list. None present on behalf of the informant. However, learned AGA for the State is present.
3. Heard Sri Ajay Kumar Vashistha, learned counsel for the applicant and Dr. S.B. Maurya, learned AGA-I for the State.
4. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 127 of 2022, under Sections 147, 148, 323, 452, 506, 302, 201 IPC, Police Station Sikandarur Vaish, District Kasganj during pendency of the trial.
5. FIR of the present case was lodged on 02.08.2022 against applicants and one another and some unknown persons and according to the FIR due to property dispute on 28.07.2022 at about 9.00 PM in the night when son of the informant was going to sleep in the home (Gher) then on the way applicants along with others intercepted him and made assault upon him and when after

hearing shriek of the son of the informant Laturi, Rajkumar and Sukhveer arrived at spot then applicants and others entered in their house after threatening his son. It is further mentioned in the FIR that after the incident son of the informant had gone to sleep in his house (Gher) but in the morning he was missing and his dead body was found in the field, which was hanging through tree.

6. It is further mentioned in the FIR that since the incident applicants absconded from their house and after inquiry Raj Kumar and Omkar informed the informant that on 29.07.2022 at about 3.00 AM in the morning they had seen the applicants and other accused persons near the spot.

7. Learned counsel for the applicant submitted that on the basis of false allegation, applicants, who are father and son have been made accused in the present matter and except motive and suspicion there is no other evidence against the applicants on record.

8. He further submits that however alleged incident dated 28.07.2022 is false and applicants never made assault upon the deceased but even if the incident dated 28.07.2022 is accepted then also at this stage it cannot be said that in the night applicants along with other accused persons committed the murder of the deceased.

9. He further submits that there is neither any circumstantial evidence nor any eye witness account, which can show that applicants committed the murder of the deceased and it appears that due to previous enmity they have been made accused in the present matter.

10. He further submits that applicants are not having any criminal history and in the present matter applicant, Tejpal is in jail since 19.09.2022 and applicant, Ajay @ Nannhey is in jail since 17.09.2022 i.e. for last almost one and half years.

11. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

13. From the record, it reflects that enmity between both the parties is admitted and before death of the deceased on previous date i.e. on 28.07.2022 at about 9.00 PM applicant and others

made assault upon the deceased and thereafter deceased was found dead in the next morning but with regard to murder of the deceased there is no cogent evidence against the applicants on record and except motive, it appears that there is no other evidence on record, which can show that applicants are the persons, who committed the murder of the deceased.

14. Further, applicants are not having any criminal history and in the present matter applicant, Tejpal is in jail since 19.09.2022 and applicant Ajay @ Nannhey is in jail since 17.09.2022 i.e. for last almost one and half years.

15. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicants are entitled to be released on bail.

16. Accordingly, without expressing any opinion on the merits of the case, the instant bail applications are **allowed**.

17. Let the applicants - **Tejpal** and **Ajay @ Nannhey** 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 applicants shall appear before the trial court on the dates fixed, unless their personal presence is exempted.

(ii) The applicants 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 applicants shall not indulge in any criminal and anti-social activity.

18. 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 applicants.

19. 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 :- 11.12.2023**  
AK Pandey