

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44110 of 2023

Applicant :- Chob Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Tripurari Pal

Counsel for Opposite Party :- G.A., Balbir Singh

Hon'ble Sameer Jain, J.

1. Sri Balbir Singh, Advocate, filed his power on behalf of the informant, which is taken on record.
2. Supplementary affidavit filed today on behalf of the applicant is taken on record.
3. Heard Sri Tripurari Pal, learned counsel for the applicant, Sri Balbir Singh, learned counsel for the informant and Sri Rajeev Dhar Dwivedi, learned AGA for the State-respondent.
4. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 291 of 2022, under Sections 302/34, 120-B IPC, Police Station- Usawan, District- Budaun, during pendency of the trial in the court below.
5. FIR of the present case was lodged against unknown person under Sections 279, 304-A, 427 IPC and according to the FIR, one *Bolero* vehicle bearing registration number *UP 76 J 3630* negligently hit the husband of the informant, due to which, her husband died at spot.
6. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Sections 279, 304-A, 427 IPC but subsequently during investigation, case was converted under Sections 302/34, 120-B IPC.
7. He further submitted that nobody was named in the FIR but during investigation, after two months when the statement of the owner of the vehicle was recorded then he disclosed the name of the applicant and thereafter it was revealed that applicant also conspired for the present crime with regard to the murder of the husband of the informant. He further submitted that there is no

cogent evidence against the applicant, which can show that applicant also involved in commission of the instant crime. He further submitted that there is neither any allegation nor any evidence that applicant was the driver of the *Bolero* vehicle, which hit the deceased.

8. He further submitted that applicant is although, having criminal history of about 11 cases but his criminal history has been explained in the supplementary affidavit filed in support of the instant bail application.

9. He further submitted that applicant is in jail in the present matter since 03.04.2023 i.e. for more than six months.

10. Per contra, learned AGA as well as learned counsel for the informant although, opposed the prayer for bail but could not dispute the fact that with the aid of Section 120-B IPC, applicant has been made accused in the present matter. However, learned counsel for the informant submitted that applicant is also having criminal history of 11 cases and therefore, he should not be released on bail.

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

12. Although, applicant is having criminal history of 11 cases to his credit but his criminal history has been explained in the supplementary affidavit filed in support of the instant bail application.

13. Further, law is settled that bail application should not be dismissed merely on the basis of criminal history, if otherwise, case of bail is made out.

14. In case at hand, initially FIR of the present case was lodged under Sections 279, 304-A, 427 IPC but subsequently during investigation, case was converted under Sections 302/34, 120-B IPC and it appears that after two months, applicant has been made accused in the present matter with the aid of Section 120-B IPC. Further, there is neither any evidence nor any allegation that applicant is the person, who was driving the *Bolero* vehicle, which hit the deceased.

15. Further, applicant is in jail in the present matter since 03.04.2023 i.e. for more than six months.

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

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

18. Let the applicant- **Chob Singh** 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.

19. 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.

20. 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 :- 28.10.2023

KK Patel