Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44005 of 2023

Applicant :- Pushpendra
Opposite Party :- State of U.P.
Counsel for Applicant :- Om Prakash Yadav
Counsel for Opposite Party :- G.A.,Ronak Chaturvedi

Hon'ble Sameer Jain,J.

1. Heard Sri Om Prakash Yadav, learned counsel for the applicant, Sri Ronak Chaturvedi, learned counsel for the informant and Dr.S.B.Maurya, 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.186 of 2023, under Sections 147,304, 34 and 342 IPC, Police Station Babina, District Jhansi during pendency of the trial.

3. FIR of the present case was lodged against the applicant and co-accused persons and according to the FIR, on 17.6.2023 at about 8.00 PM when informant along with his cousin brother Pushpendra and with his younger brother Bharat alias Golu was returning to village on the way applicant and other co-accused persons intercepted them and thereafter they have taken his brother Bharat alias Golu and thereafter his brother did not return and in the morning informant received information that at about 5.00 AM in the morning applicant and other co-accused persons assaulted him and he died in CHC Babina.

4. Learned counsel for the applicant submits that entire allegation made against the applicant is totally false and baseless and he has been made accused in the present matter only due to the reason that he is the brother-in-law (Bahnoi) of

co-accused Lal Singh.

5. He further submits that on the basis of information given by co-accused Lal Singh to Police, Police arrived at the house of Lal Singh and has taken the deceased to Hospital where he died.

6. He further submits, it appears that deceased was having some relationship with the wife of co-accused Lal Singh, i.e., sister of applicant and when he entered in his house then he sustained injury and died and only being brother-in-law of co-accused Lal Singh he has been made accused in the present matter.

7. He further submits that except the evidence of last seen, there is no other evidence against the applicant on record.

8. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 19.6.2023.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that applicant along with co-accused persons including Lal Singh has taken the deceased and thereafter he was found in injured condition in the house of co-accused Lal Singh and when police arrived at spot then police took him to the Hospital where he died and the last seen evidence against the applicant clearly shows the involvement of the applicant and, therefore, he should not be released on bail.

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

11. It is a case of circumstantial evidence and it appears that on the basis of last seen evidence clubbed with the fact that applicant is the brother-in-law (Bahnoi) of co-accused Lal

Singh, he has been made accused in the present matter and although it is a case of circumstantial evidence but prosecution has not come with any motive.

12. Further, from the record it reflects that brother-in-law of applicant himself informed the Police that applicant had entered in his house and there is n o evidence on record which can show that applicant was also present in the house of his brother-in-law, i.e., co-accused Lal Singh.

13. Further, applicant is not having any previous criminal history and he is in jail in the present matter since June, 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-**Pushpendra** 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 :- 31.10.2023
SKM

Digitally signed by :-
SHRAVANA KUMAR MISHRA
High Court of Judicature at Allahabad