

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44487 of 2023

Applicant :- Jagdev Verma

Opposite Party :- State of U.P.

Counsel for Applicant :- Phool Singh Yadav, Vaibhav Yadav

Counsel for Opposite Party :- G.A., Padmaker Pandey

Hon'ble Sameer Jain, J.

1. Heard Sri Phool Singh Yadav, learned counsel for the applicant, Sri Padmaker Pandey, learned counsel for the informant and Sri Manoj Kumar Singh, learned Brief Holder, 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.219 of 2023, under Sections 147,148,504, 352, 302, 506 and 323 IPC, Police Station Hanumant Vihar, District Kanpur Nagar during pendency of the trial.

3. FIR of the present case was lodged against the applicant and seven others on 17.8.2023 and according to the FIR, in spite of injunction order in favour of the informant, applicant and his associates were trying to dispossess the informant from the plot in dispute and when police arrived then police has taken both the sides to the Police Station where Chowki In-charge Ashok Kumar Singh (co-accused) along with applicant and others assaulted the son of the informant and due to assault made by them he died.

4. Learned counsel for the applicant submits that on the basis of totally false and baseless allegation applicant has been made accused in the present matter.

5. He further submits that only general and omnibus allegation has been levelled against the accused including the applicant.

6. He further submits that dispute with regard to a plot is admittedly pending between both the sides.
7. He further submits that even from the post mortem report of the deceased it appears that he died due to single contusion on his head and there is no evidence that applicant is the author of this injury.
8. He further submits that bail application of co-accused Vinod Verma has been allowed by Coordinate Bench of this Court vide order dated 2.11.2023 passed in Criminal Misc.Bail Application No. 46394 of 2023 and the case of applicant is at par with him.
9. He further submits that applicant is although having criminal history of three cases but all the three cases were of minor offences and out of three cases, in two cases applicant is on bail and in one case after investigation final report has been submitted.
10. He further submits that criminal history of applicant has been explained in the supplementary affidavit dated 5.11.2023 filed in support of the instant bail application.
11. He further submits that applicant is in jail in the present matter since 17.8.2023.
12. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that after considering the entire evidence of the case with a very detailed and reasoned order learned Sessions Judge rejected the bail application of applicant but both the learned counsels could not dispute the argument on facts advanced by the learned counsel for the applicant.

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

14. Considering the fact that on the basis of general and omnibus allegation applicant has been made accused along with seven others in the present matter and post mortem report of the deceased suggests that he died due to single contusion sustained by him on his head and the bail application of co-accused Vinod Verma has been allowed by Coordinate Bench of this Court, 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-**Jagdev Verma** 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 :- 17.11.2023
SKM