

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 44678 of 2023

Applicant :- Akhilesh Pal

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajeet Singh

Counsel for Opposite Party :- G.A.,Hirdesh Kumar Yadav,Sushma Yadav

Hon'ble Sameer Jain,J.

1. Heard Sri Ajeet Singh, learned counsel for the applicant, Sri Hidesh Kumar Yadav, learned counsel for the informant and Sri Jhamman Ram, 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.251 of 2023, under Sections 147,148,323,504,506,308,304 and 452 IPC, Police Station Sarai Lakhansi, District Mau during pendency of the trial.
3. FIR of the present case was lodged against the applicant and eight others and according to the FIR, applicant along with other accused persons arrived at the home of the informant and applicant and other co-accused persons made assault through wooden stick and rods upon the informant, her brothers, Krishna Prajapati, Brijesh Prajapati and her sister Ranjana Prajapati and due to their assault her both the brothers sustained number of injuries.
4. Learned counsel for the applicant submits that initially FIR of the present case under Sections 147,148,323,504 and 506 IPC but after the death of one of injured Krishna, the brother of the informant, the case was converted under Section 304 IPC.
5. He further submits that in the FIR informant alleged that

applicant and other co-accused persons also beaten her but she did not sustained any injury and only general role has been assigned by her to all the accused persons including applicant in the FIR but when the statements of the alleged injured Ranjana Prajapati and Brijesh Prajapati were recorded under Section 161 Cr.P.C. then they specifically stated that co-accused Sandeep Pal, Pradeep Pal and Amit Pal made assault upon the deceased and injured Brijesh Prajapati and with regard to applicant they stated that when injured persons and others tried to save their life then he along with other co-accused persons also abused them and assaulted them.

6. He further submits that from the statements of both the alleged injured, it reflects that applicant did not cause any injury to the deceased.

7. He further submits that although in the statement of both the injured it is mentioned that the incident has also been captured in CCTV footage but during investigation no such footage of CCTV could be recovered and in this regard Investigating Officer did not prepare any recovery memo.

8. He further submits that bail application of co-accused Ramniwas Pal, who was also named in the FIR has been allowed by Coordinate Bench of this Court vide order dated 11.10.2023 passed in Criminal Misc.Bail Application No. 37715 of 2023.

9. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 1.8.2023.

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 as per statement of the alleged injured persons co-accused Sandeep Pal, Pradeep Pal and Amit Pal caused injuries to the deceased and there is no allegation that applicant caused injury to the deceased.

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

12. Considering the fact that in the statements of the injured witnesses, there is no allegation against the applicant that he also caused any injury to the deceased and applicant is not having any previous criminal history and he is in jail in the present matter since 1.8.2023, in my view, applicant is entitled to be released on bail.

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

14. Let the applicant-**Akhilesh Pal** 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.

15. 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.

16. 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 :- 2.11.2023
SKM