

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46394 of 2023

Applicant :- Vinod Verma

Opposite Party :- State of U.P.

Counsel for Applicant :- Phool Singh Yadav, Vaibhav Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A. for the State and perused the record.

2. It has been argued by learned counsel for the applicant that the applicant is innocent and has been falsely implicated in the present case. Learned counsel further submits that an F.I.R. dated 17.08.2023 was lodged at about 00:36 hours in the night by the complainant against eight persons including the applicant with the allegation that when on 16.08.2023 at about 1:00 p.m. he along with his two sons was present on his plot then the named accused persons along with other accused persons armed with firearm reached there and started abusing and attacked upon them, on information police came at the spot and when the police took both sides at the police station to pacify the matter, but there accused persons started abusing them and assaulted the son of the complainant, namely Dinesh in presence of S.H.O., the S.H.O. took inside his son along with other accused persons where he was assaulted badly on account of which he became unconscious, thereafter, they took her son to the hospital where the doctor declared brought dead. Learned counsel for the applicant further submits that there was dispute of plot between the complainant and the accused Smt. Preeti Verma for which injunction was also granted by the court concerned in favour of Smt. Preeti Singh and the complainant is a land mafia and wants to evict Smt. Preeti Singh from the said plot. Learned counsel for the applicant further submits that it is alleged in the F.I.R. that eight accused persons including the applicant beatn Dinesh Singh (deceased), but there is only one injury found in his postmortem of contusion of size 0.5 cm. x 0.3 c.m. on left side occipetal region 2.0 c.m. behind the left ear. Learned counsel for the applicant further submits that eye witness Saurabh Singh has not made any allegation against the applicant in his statement. General allegation has been made by the

complainant and other witnesses for assaulting the deceased and no specific allegation has been made against the applicant. Learned counsel for the applicant further submits that there is no direct or indirect evidence found against the applicant during the course of investigation and applicant has no motive or intention to commit the crime. Learned counsel for the applicant further submits that applicant has a criminal history of two cases which has been explained in para-32 of the affidavit accompanying to the bail application. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 17.08.2023.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant by contending that the innocence of the applicant cannot be adjudged at pre trial stage, therefore, he does not deserve any indulgence.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Vinod Verma**, involved in Case Crime No. 219 of 2023, under Sections 147, 148, 504, 352, 302, 506, 323 I.P.C., Police Station Hanumant Vihar, District Kanpur Nagar, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

(ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant shall remain present, in person, before the trial court on dates fixed for (1) opening of the case, (2) framing of charge and (3) recording of statement under Section 313 Cr.P.C. If in the opinion of the trial court absence of the applicant is deliberate or without sufficient cause, then it shall be open for the trial court to treat such default as abuse of liberty of bail and proceed against him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

6. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail in accordance with law.

7. The bail application is **allowed**.

Order Date :- 2.11.2023

Mustaqeem.