

Court No. - 65

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45211 of 2023

Applicant :- Ravindra Yadav

Opposite Party :- State of U.P.

Counsel for Applicant :- Yadvesh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Rajeev Misra,J.

Heard Mr. Yadvesh Yadav, the learned counsel for applicant and the learned A.G.A. for State.

Perused the record.

This bail application has been filed by the applicant Ravindra Yadav seeking his enlargement on bail in Case Crime No. 27 of 2023, under Sections 304, 504 IPC, P.S. Chakarghatta, District Chandauli, during the pendency of trial.

Record shows that in respect of an incident, which is alleged to have occurred on 22.6.2023, a delayed F.I.R. dated 23.6.2023 was lodged by first informant Ramesh Chandra (grandson of the deceased) and was registered as Case Crime No. 27 of 2023, under Sections 304, 504 IPC, P.S. Chakarghatta, District Chandauli. In the aforesaid F.I.R., 3 persons namely Ravindra, Santosh and Bhagwanti have been nominated as named accused.

Learned counsel for the applicant submits that as per the F.I.R., the role of pushing the deceased is assigned to named accused Santosh, who has already been enlarged on bail by this Court, vide order dated 5.10.2023 passed in Criminal Misc. Bail Application No. 42417 of 2023 (Santosh Vs. State of U.P.). For ready reference, same is reproduced herein under:-

"By means of the bail application the applicant has prayed to be enlarged on bail in Case Crime No.27 of 2023 at Police Station-Chakarghatta, District- Chandauli under Sections 304, 504 IPC. The applicant is in jail since 26.06.2023.

The bail application of the applicant was rejected by the learned trial court on 25.08.2023.

The following arguments made by Shri Yadvesh Yadav, learned counsel on behalf of the applicant, which could not be satisfactorily refuted by and Shri Chandan Agrawal, learned AGA from the record, entitle the applicant for grant of bail:

- 1. The applicant has been nominated on account of neighbourhood village rivalry.**
- 2. The criminal proceedings are being leveraged to settle the dispute on the terms of the first informant.**
- 3. The postmortem report discloses that there was no antemortem injury on the body of the deceased.**
- 4. The postmortem report contradicts the prosecution case.**
- 5. Prosecution evidence does not connect the applicant with the offence.**
- 6. The applicant does not have any criminal history apart from this case.**
- 7. The applicant is not a flight risk. The applicant being a law abiding citizen has always cooperated with the investigation and undertakes to join the trial proceedings. There is no possibility of his influencing witnesses, tampering with the evidence or reoffending.**

In the light of the preceding discussion and without making any observations on the merits of the case, the bail application is allowed.

Let the applicant- Santosh be released on bail in the aforesaid case crime number, on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court below. The following conditions be imposed in the interest of justice:-

- (i) The applicant will not tamper with the evidence or influence any witness during the trial.**
- ii) The applicant will appear before the trial court on the date fixed, unless personal presence is exempted."**

On the above premise, the learned counsel for applicant contends that case of present applicant is on better footing than named accused Santosh, inasmuch as no specific role of assault has been assigned to present applicant. He, therefore, contends that in view of above and for the facts and reasons recorded in the bail order of co-accused Santosh, the applicant is also liable to be enlarged on bail.

Even otherwise, applicant is a man of clean antecedents, inasmuch as he has no criminal history to his credit except the present one. Applicant is in jail since 02.09.2023. As such, he has undergone more than one month of incarceration. The police report in terms

of Section 173 (2) Cr. P. C. has already been submitted. As such, the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized. However, no such circumstance has emerged necessitating the custodial arrest of the applicant during the pendency of trial. It is thus urged that applicant is liable to be enlarged on bail. In case, the applicant is enlarged on bail, he shall not misuse the liberty of bail and shall co-operate with the trial.

Per contra, the learned A.G.A. has opposed the prayer for bail. He submits that since the applicant is a named/charge sheeted accused, inasmuch as charge sheet has been submitted against applicant and other named accused on 11.9.2023 therefore, no indulgence be granted by this Court. However, he could not dislodge the factual/legal submissions urged by the learned counsel for applicant with reference to the record at this stage.

Having heard the learned counsel for applicant, the learned A.G.A. for state, upon perusal of material brought on record, nature and gravity of offence, evidence, complicity of the accused, accusation made and coupled with the fact that main accused Santosh who has been assigned the role of pushing the grandmother of the first informant on account of which she fell down and sustained injuries, has already been enlarged on bail, no specific role of assault upon the deceased has been assigned to the present applicant, therefore, in view of above and for the facts and reasons recorded in the bail order of co-accused Santosh, the clean antecedents of applicant, the period of incarceration undergone, the police report in terms of Section 173 (2) Cr. P. C. has already been submitted, therefore the entire evidence sought to be relied upon by the prosecution against applicant stands crystallized, yet in spite of above, the learned A.G.A. could not point out any such circumstance from the record necessitating the custodial arrest of the applicant during the pendency of trial, therefore, irrespective of the objections raised by the learned A.G.A. in opposition to the application for bail, but without making any comments on the merits of the case, the applicant has made out a case for bail.

Accordingly, the bail application is **allowed**.

Let the applicant **Ravindra Yadav** involved in aforesaid case crime number, be released on bail on his furnishing a personal bond with two heavy sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice :-

(i) 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.

(ii) The applicant shall remain present before the trial court on each date fixed, either personally or through his counsel. In case of his absence, without sufficient cause, the trial court may proceed against him under section 229-A I.P.C..

(iii) 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.

(iv) 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.

(v) The trial court may make all possible efforts/endeavour and try to conclude the trial within a period of one year after the release of the applicant.

However, it is made clear that any wilful violation of above conditions by the applicant, shall have serious repercussion on his bail so granted by this court and the trial court is at liberty to cancel the bail, after recording the reasons for doing so, in the given case of any of the condition mentioned above.

Order Date :- 27.10.2023

HSM