

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45724 of 2023

Applicant :- Ankit Chauhan

Opposite Party :- State of U.P.

Counsel for Applicant :- Anand Pati Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Anand Pati Tiwari, learned counsel for the applicant and Sri Manoj Kumar Singh, learned Brief Holder for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 223 of 2023, under Sections 147, 148, 149, 323, 307, 302, 34 IPC, Police Station Chandaus, District Aligarh, during pendency of the trial in the court below.

3. FIR of the present case was lodged against ten persons (non applicant) and some unknown persons and according to the FIR when nominated accused persons and their unknown associates were fighting with each other and informant and his father intervened then they started scuffling with informant and his father and with intention to cause death, they opened fire upon the informant and his father and due to the fire opened by them father of the informant sustained fire arm injury on his chest and died.

4. Learned counsel for the applicant submitted that applicant was not named in the FIR and even when the statement of the informant was recorded under section 161 Cr.P.C. then also he did not disclose the name of the applicant. However in his statement, he stated that co-accused Sachin Saraswat caused fire arm injury to his father.

5. He further submitted that when the statements of the eye witnesses Vinay and Nitin were recorded during investigation then they although disclosed the name of the applicant but they also stated that co-accused Sachin Saraswat opened fire upon the informant and his father and due to the fire opened by him, father of the informant sustained injuries and died.

6. He further submitted that although applicant is having criminal history of two other cases but both the cases were of

minor offences and his criminal history has been explained in the instant bail application.

7. He further submitted that applicant is in jail in the present matter since 19.9.2023.

8. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that applicant was neither named in the FIR nor in the statement of the informant record during investigation and his name was disclosed by two other witnesses and informant and both these witnesses attributed the role of firing to co-accused Sachin Saraswat and there is no allegation against the applicant that he either opened fire or caused any injury to the deceased.

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

10. Applicant was not named in the FIR and his name was disclosed by witnesses Vinay and Nitin but from perusal of the statement of the informant and these two eye-witnesses it appears that role of causing fire arm injury has been attributed to co-accused Sachin Saraswat.

11. However, applicant is having previous criminal history of two other cases to his credit but from the perusal of the paragraph 20 of the instant bail application it appears that both the cases are of the offences punishable up to 7 years and in both the cases, till date applicant has not been arrested.

12. Further, applicant is in jail in the present case since 19.9.2023.

13. Therefore, considering the facts and circumstances of the case, discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant- **Ankit Chauhan**, 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.

16. 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.

17. 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 :- 30.10.2023

Ankita