

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45460 of 2023

Applicant :- Ramgopal

Opposite Party :- State of U.P.

Counsel for Applicant :- Sher Bahadur Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.

2. Heard Sri Sher Bahadur Yadav, learned counsel for the applicant and Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.

3. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- Ramgopal, seeking enlargement on bail during trial in connection with Case Crime No. 71 of 2023, under Sections 147, 148, 149, 307, 302, 323, 504 I.P.C. and 7 Criminal Law Amendment Act, Police Station Jarifnagar, District Budaun.

4. The applicant is being prosecuted in Case Crime No. 0071 of 2023 of which a first information report was lodged by Veerpal in which Jai Prakash, Satendra and Hari Om have died whereas the informant Veerpal and Rohtash are the injured. It is pleaded that there is a cross report of the said incident being Case Crime No. 0072 of 2023 lodged by Dalbir against 07 persons in which Resham Pal is the deceased whereas Radhey Shyam and Dalbir are the injured persons.

5. The first information report of the present matter was lodged against 15 persons including the applicant alleging therein that on 22.02.2023 he, his brother Rohtash, father Mahipal, Hari Om, Satendra, Jai Prakash had gone to the fields to put fertilizer in the wheat crop. When they were preparing for the same at about 12.45 pm the accused persons came there in which Radhey Shyam was having a 315 bore country-made pistol whereas other accused persons were armed with lathi, danda & bhala attacked them.

6. Learned counsel for the applicant argued that the present case has a cross case and there are deceased and injured persons from both the sides. It is argued that general and common role has been assigned to the applicant along with 13 other persons of assault

whereas it is alleged that co-accused Radhey Shyam was armed with a country-made pistol. It is argued that the prosecution is not truthful in as much as there is concealment and suppression of the factum of one person dying from the side of the applicant and two persons receiving injuries in the said incident. It is further argued that co-accused Pappu, Chob Singh and Naresh have been granted bail by co-ordinate Benches of this Court as well as by this Court vide orders dated 21.09.2023, 25.09.2023 and 6.10.2023 passed in Criminal Misc. Bail Application Nos. 38588 of 2023, 30927 of 2023 and 42675 of 2023, the copies of the said orders are annexed as annexure No.18 to the affidavit filed in support of present bail application. While the applicant was in jail, he has been implicated in a case under the Gangsters Act. The applicant is in jail since 6.3.2023.

7. Per contra, learned counsel for the State opposed the prayer for bail.

8. After having heard learned counsel for the parties and perusing the record, it is evident that the present case has a cross version also. There are deceased and injured from both the sides. Co-accused Pappu, Chob Singh and Naresh have been granted bail.

9. Looking to 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, this Court is of the view that the applicant may be enlarged on bail.

10. Let the applicant-Ramgopal, 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 concerned with the following conditions which are being imposed in the interest of justice:-

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.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

11. 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 and send the applicant to prison.

12. The bail application is **allowed**.

(Samit Gopal, J.)

Order Date :- 28.10.2023
Gaurav Kuls