

Court No. - 72

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 45802 of 2023

Applicant :- Mohd. Ahmad @ Sheru And Another

Opposite Party :- State of U.P.

Counsel for Applicant :- Phool Singh Yadav, Vaibhav Yadav

Counsel for Opposite Party :- G.A., Manvendra Singh, Sanjeev Pratap Singh

Hon'ble Krishan Pahal, J.

1. List has been revised.
2. Heard Sri Phool Singh Yadav, learned counsel for the applicants, Sri Manvendra Singh, learned counsel for the informant as well as Sri Ashutosh Srivastava, learned A.G.A. for the State and perused the material placed on record.
3. Applicants seek bail in Case Crime No.185 of 2020, under Sections 147, 148, 323, 324, 308, 504 I.P.C., Police Station-Bindki, District- Fatehpur, during the pendency of trial.
4. As per prosecution story, the applicants alongwith three other named accused persons are stated to have assaulted the informant and his family members, thereby causing grievous injuries to three persons including one Kismatun @ Ismatun, who has sustained contusion and fracture on her right parietal bone, and she is also stated to have sustained puncture wound through and through her cheek on 2.5.2020 at about 12:00 p.m.
5. Learned counsel for the applicants has argued that the applicants have been falsely implicated in the present case. The FIR is delayed by about more than five hours and there is no explanation of the said delay caused. There are general allegations against all the accused persons. Several other submissions have been made on behalf of the applicants to demonstrate the falsity of the allegations made against them. The circumstances which, as per counsel, led to the false implication of the applicants have also been touched upon at length. It is further stated that there is no criminal history of the applicants. The applicants are languishing in jail since 9.10.2023. In case, the applicants are released on bail, they will

not misuse the liberty of bail.

6. Per contra, learned counsel for the informant and learned A.G.A. have vehemently opposed the bail application on the ground that the co-accused person Mansoor @ Guddu has escaped to Saudi Arabia and there are also likelihood of applicants leaving the country.

7. Considering the facts and circumstances of the case, submissions made by learned counsel for the parties, the evidence on record, and without expressing any opinion on the merits of the case, the Court is of the view that the applicants have made out a case for bail. The bail application is **allowed**.

8. Let the applicants- **Mohd. Ahmad @ Sheru** and **Rajjan Khan @ Rajan**, who are involved in aforementioned case crime be released on bail on their furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned subject to following conditions. Further, before issuing the release order, the sureties be verified.

(i) The applicants shall not tamper with evidence.

(ii) The applicants 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 applicants 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 them in accordance with law.

(iii) The applicants shall surrender their passports, issued if any, before the trial court concerned.

9. In case of breach of any of the above conditions, it shall be a ground for cancellation of bail.

10. It is made clear that observations made in granting bail to the applicants shall not in any way affect the learned trial Judge in forming their independent opinion based on the testimony of the witnesses.

Order Date :- 31.10.2023

Vikas

[Krishan Pahal, J.]