

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46075 of 2023

Applicant :- Dharampal @ Deepa

Opposite Party :- State of U.P.

Counsel for Applicant :- Shyam Lal, Abhilasha Singh, Ashutosh Yadav

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Ms. Abhilasha Singh, learned counsel for the applicant; Sri Pankaj Satsangi, learned counsel for the informant and Sri R.N. Srivastava, learned AGA for the State-respondent.

2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 151 of 2023, under Sections 147, 323, 504, 307, 302 IPC, Police Station Dhanari, District Sambhal, during pendency of the trial in the court below.

3. FIR of the present case was lodged against the applicant and five others and according to the FIR on 7.7.2023 at about 5 pm in the evening when brother of the informant Layak and Ramjimal were returning to their village from station then on the way applicant and other accused persons intercepted them and assaulted him with lathi and danda and due to the assault made by them both sustained injuries.

4. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under section 147, 323, 504 and 307 IPC but after the death of one injured Layak case was converted under section 302 IPC.

5. She further submitted that from the perusal of the FIR, it appears that informant was not eye witness and another brother of the informant namely Ramjimal accompanied the deceased and he was also the injured witness and when his statement was recorded under section 161 Cr.P.C. then he stated that co-accused Mahipal, Liyakat and Ram Niwas has taken the deceased and caused injury to him and he did not state that applicant either took the deceased or caused any injury to him.

6. She further submitted that injured Ramjimal further states that applicant and other co-accused Bhure and Balveer although taken him but he further stated that co-accused Balveer and Bhure caused injury to him and one Kalicharan and therefore, it appears that there is no role of applicant in causing any injury even to the

injured.

7. She further submitted that applicant is having no criminal history and he is in jail in the present matter since 21.8.2023.

8. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail but could not dispute the arguments on facts advanced by learned counsel for the applicant.

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

10. Considering the fact that applicant is having no criminal history and there is no allegation against him that he either caused any injury to the deceased or injured and only allegation against him is that he also took the injured alongwith other accused persons, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant-**Dharampal @ Deepa**, 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.

13. 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.

14. 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 :- 1.11.2023

Ankita