

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48057 of 2023

Applicant :- Sukhlal And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Ram Prakash Dwivedi, Pranshu Dwivedi

Counsel for Opposite Party :- G.A., Aman Kumar Rai, Ashok Kumar Rai

Hon'ble Sameer Jain, J.

1. Heard Sri Ram Prakash Dwivedi, learned counsel for the applicant, Sri Aman Kumar Rai, learned counsel for the informant and Dr.S.B.Maurya, learned AGA-I, for the State.
2. The instant bail application has been filed on behalf of the applicants with the prayer to release them on bail in Case Crime No.42 of 2023, under Sections 147,148,149, 323, 307, 302 and 504 IPC, Police Station Mansukhpura, District Agra during pendency of the trial.
3. FIR of the present case was lodged against the applicants and two others and according to the FIR, on 23.7.2023 at about 6.30 AM in the morning applicants along with two other accused persons made assault upon Ramu S/o Bhoop Singh and due to assault made by them he died. It is further mentioned in the FIR that due to assault made by applicants and other accused persons number of persons also sustained injuries.
4. Learned counsel for the applicants submits that however in the FIR number of injured was not disclosed but subsequently during investigation it was revealed that in the incident three persons sustained injuries and one Ramu died.
5. He further submits that however in the FIR only general and omnibus allegations have been made against all the accused

persons including the applicants but when the statements of three injured persons were recorded by Investigating Officer under Section 161 Cr.P.C. then they stated that co-accused Rajendra gave blow of axe on the head of the deceased and no role of causing injury to the deceased has been attributed to the applicants.

6. He further submits that injured Ram Autar and Rahul in their statements stated that applicants along with co-accused Ravi made assault upon them but their injury reports show that they did not sustain any injury which could be categorized as dangerous to life.

7. He further submits that co-accused Ravi has already been released on bail by Coordinate Bench of this Court vide order dated 2.11.2023 passed in Criminal Misc.Bail Application No. 46340 of 2023.

8. He placed the order of co-accused Ravi during the course of argument which is taken on record and marked as "A".

9. He further submits that case of applicants is at par with co-accused Ravi and applicants are not having any previous criminal history and in the present matter they are in jail since 28.4.2023.

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

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

12. Considering the fact that all the three injured did not attribute any role of causing injury to the deceased to applicants and they

specifically attributed the role of causing injury to deceased by co-accused Rajendra and co-accused Ravi has already been released on bail by Coordinate Bench of this Court, in my view, applicants are also entitled to be released on bail.

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

14. Let the applicants-**Sukhlal, Vijendra** and **Naresh** 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 their personal presence are 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.

15. 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.

16. 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 :- 28.11.2023/SKM