

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 46801 of 2023

Applicant :- Satish

Opposite Party :- State of U.P.

Counsel for Applicant :- Jitendra Prasad Mishra,Prakhar Kumar Kushwaha

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. Heard Sri Jitendra Prasad Mishra, learned counsel for the applicant and Sri Ajay Singh, learned A.G.A.-I for the State and perused the material on record.

2. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant- **Satish**, seeking enlargement on bail during trial in connection with Case Crime No. 274 of 2023, under Section 323, 504, 506, 307, 302 I.P.C., Police Station Devband, District Saharanpur.

3. The first information report of the present matter was lodged on 11.05.2023 by Manoj Kumar under Sections 307, 323, 504, 506 I.P.C. against the applicant and 03 other persons alleging therein that on 11.05.2023 he along with his brother Manish Kumar and father Rishipal was working in his field wherein at about 10.30 a.m. the accused persons armed with *fawda*, *lathi*, *danda* and sharp weapon came there and hurled abuses on them and stated that they have stopped the flow of water in the drain after which they assaulted him, his brother and father who have received serious injuries.

4. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that Rishipal was medically examined who was found to have received 09 injuries on his person. It is argued that Manish @ Munesh the brother of the informant was medically examined and was found to have received two lacerated wounds which was directed to be kept under observation. It is argued that in so far as the first informant Manoj is concerned although he is found to have received a lacerated wound and two red abrasions but the doctor opined the said injuries to be simple in nature. It is argued that subsequently Rishipal died and in the postmortem examination report 12 injuries were found on his person and the doctor opined the cause of death is due to shock & haemorrhage as a result of antemortem injuries. It is argued that Rishipal died on 11.05.2023 in the hospital. Learned counsel while placing paragraph 22 of the affidavit has argued that presuming the entire allegations to be true, the offence in the present matter would not travel beyond Section 304 Part-II I.P.C. and the matter in any manner is not a case under Section 302 I.P.C. It is argued that the applicant has been falsely implicated due to jealousy and anger of the first informant because Mahendra (Bhagat Ji) one uncle of the applicant had executed a sale-deed in favour of the son of the applicant and son of Ram Swaroop from which Rishipal and his son Manoj and

Manish were annoyed. The applicant has no criminal history as stated in para 21 and is in jail since 12.05.2023.

5. *Per contra*, learned counsel for the State vehemently opposed the prayer for bail and argued that in the present matter one person has died and two have received injuries. The first information report is a prompt report which has been lodged after 55 minutes of the incident wherein the distance between the place of occurrence and police station was 10 kilometers. It is argued that the incident is a day light incident. The accused persons are known to the first informant and the other injured Manish. There are no chances of false implication. The deceased and injured persons have received substantial injuries on their person. It is argued that the bail application thus deserves to be rejected.

6. After having heard learned counsel for the parties and perusing the record, it is evident that the applicant is named in the first information report. In the present matter one person has died and two have received injuries. The first informant is also an injured witness. The injured persons and the deceased have received good number of injuries which corroborate with the prosecution version. There is no glaring reason for false implication. No ground for bail is made out.

7. Looking to the facts and circumstances of the case, this Court does not find it a fit case for bail, hence, the bail application is **rejected**.

Order Date :- 16.11.2023

AS Rathore

(Samit Gopal,J.)