

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47176 of 2023

Applicant :- Raj @ Atish @ Ashish

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd Raghieb Ali, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Sagir Ahmad, learned Senior Advocate assisted by Sri Mohd Raghieb Ali, learned counsel for the applicant, Sri Ajay Singh, learned AGA-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 **Raj @ Atish @ Ashish**, seeking enlargement on bail during trial in connection with Case Crime No. 58 of 2023, under Sections 302, 506 IPC and Section 3/25/27 Arms Act, registered at P.S. Ait, District Jalaun.
4. The FIR of the matter was lodged on 17.04.2023 by Sheelam against the applicant and one unknown person alleging therein that on 17.04.2023 his brother Sri Chandra was coming with his younger sister Roshni who was studying in the college after giving her exams. At about 11:30 am while coming on foot when they reached Kotra Mod near Kotra Pull two persons on a motorcycle came on which one person was Raj Jamrehi who she new but she did not know other person. Raj Jamrehi fired upon her sister with a country made pistol and ran away due to which her sister received gun shot injury and died. She and her brother Sri Chandra saw the incident. Raj had even previously extended threats.
5. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that there is no eye witness to the incident. The FIR was lodged at a later point of time. It is argued that there is noting in the case diary that after the field unit of the police reached the place of occurrence, they shifted the body of the deceased to the medical college for treatment for maintaining law and order. It is argued that there is

no reference of first informant or the other eye witness present there which would go to show that they were not present. It is further argued that even the place where the dead body was lying is not clear from the records. Learned counsel while placing para 13 of the affidavit in support of the bail application has argued that the first informant Sheelam has deliberately not disclosed in the FIR where the dead body of the deceased was lying. The brother of the deceased alleged in the FIR that the dead body has already been sent to the medical college. Further, while placing para 17 of the affidavit it is argued that just in front of the alleged place of occurrence there is a hospital of Dr. Mohan Singh situated at a distance of about 50 meters but neither the first informant nor Sri Chandra the alleged other eye witness made any efforts to take the deceased to the said hospital for saving her life. It is argued that even as such the place of occurrence is doubtful. Further, while placing para 18 of the affidavit it is argued that there are CCTV cameras installed near the place of occurrence but the Investigating Officer has not collected any CCTV footage for the same which is also a blunder committed by the Investigating Agency as the same would have disclosed whether any such incident as stated had occurred at the said place or not. It is argued that after the present case, the applicant has been involved in two other cases and then has been detained in National Security Act vide order dated 30.06.2023. Para 39 of the affidavit has been placed before the Court. The applicant is in jail since 17.04.2023.

6. Per contra, learned counsel for the State opposed the prayer for bail and argued that the present case is a daylight incident. The applicant has been assigned the role of shooting on the deceased. The deceased Km. Roshni was found to have received a lacerated wound on her neck. The injury had an exit wound. The cause of death is shock and hemorrhage due to firearm injury. It is argued that the informant and Sri Chandra are natural witnesses. It is further argued that the applicant is named in the FIR and role has been assigned being the main shooter of the incident. It is argued that there is no reason for false implication of the applicant and as such the prayer for bail of the applicant be rejected.

7. After having heard learned counsels for the parties and perusing the records, it is evident that the applicant is named in the FIR. He has been assigned the main role of shooting upon the deceased. The prosecution story gets corroborated from the medical evidence. In so far as the movement of the dead body and non disclosure of the presence of the informant and the other eye witnesses in the case diary is concerned, the same is matter of trial

at the appropriate stage. I do not find it a fit case for bail.

8. Considering the totality of the case in particular, nature of evidence available on record, I am not inclined to release the applicant on bail.

9. The bail application is, accordingly, ***rejected***.

Order Date :- 6.11.2023

M. ARIF

(Samit Gopal, J.)