

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48907 of 2023

Applicant :- Rishi Ram Urf Rishi Ram

Opposite Party :- State of U.P.

Counsel for Applicant :- Dinesh Singh Yadav

Counsel for Opposite Party :- G.A., Rajesh Kumar

Hon'ble Samit Gopal, J.

1. List revised.
2. Heard Sri Lalit Srivastava holding brief of Sri Dinesh Singh Yadav, learned counsel for the applicant, Sri Rajesh Kumar, learned counsel for the first informant and Sri Ajai Singh learned A.G.A.-I for the State and perused the material on record.
3. Sri Rajesh Kumar, Advocate, submits that he has filed his Vakalatnama in the office on behalf of the first informant on 16.11.2023 but the same is not on record.
4. Office is directed to trace out the same and place it on record and make a note in the order sheet about it.
5. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant-Rishi Ram Urf Rish Ram, seeking enlargement on bail during trial in connection with Case Crime No. 49 of 2023, under sections 147, 148, 323, 504, 304, 325 I.P.C., Police Station Zamania, District Ghazipur.
6. The FIR of the present case was lodged on 19.2.2023 by Manoj Kumar against the applicant and six other persons alleging therein that on 18.2.2023 at about 6.30 p.m. he went to the house of Rohit Ram where the accused persons who are collateral of Rohit Ram armed with lathi, danda and iron rod reached there and told him not to do work on the field of Rohit Ram which was refused by the applicant on which they assaulted him and other persons. Santosh Ram, the brother of the applicant received injuries after which he was referred to higher centre but he died. Guddu Ram and Radhika have also received injuries in the said incident. The FIR has thus been lodged.
7. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that general and common role has been assigned to the applicant and co-accused persons. It is argued that Rohit Ram was interrogated as an eye-witness who has assigned the role of assault upon the head of the deceased to co-accused Parvindra. In so far as the applicant and other accused persons are concerned, general and common role has been assigned to them. It is further argued that two alleged eye-witnesses namely Guddu Ram and Radhika have assigned common and general role to all the accused persons including applicant without any specification of any role. It is further argued that co-accused Pravendra Ram @ Pravendra Kumar,

Udit Kumar, Jiut Ram, Nandlal Ram @ Prasad, Guddu @ Dharmendra and Chandan @ Chandhan have granted bail by coordinate Benches of this Court vide orders dated 20.09.2023, 18.07.2023, 13.07.2023, 01.06.2023, 29.05.2023 and 15.05.2023 in Criminal Misc. Bail Application Nos. 38882 of 2023, 24077 of 2023, 30550 of 2023, 24906 of 2023, 24140 of 2023, and 21672 of 2023 respectively, copies of the same are annexed from page nos. 45 to 60 of the affidavit. It has also been pointed out that the applicant is not having any criminal history as stated in para 22 of the affidavit and he is in jail since 19.2.2023.

8. Per contra, learned counsel for the State and learned counsel for the first informant have opposed the prayer for bail but could not dispute the arguments as aforesaid.

9. After hearing the counsel for the parties and perusing the record, it is evident that common and general role has been assigned in the FIR to the applicant along with other co-accused persons. In the statement of one of the alleged eye-witness, role of assault on the deceased has been assigned to co-accused Parvindra with an iron-rod. Two other eye-witnesses have assigned common and general role to the applicant and other co-accused persons. Co-accusedco-accused Pravendra Ram @ Pravendra Kumar, Udit Kumar, Jiut Ram, Nandlal Ram @ Prasad, Guddu @ Dharmendra and Chandan @ Chandhan have granted bail by coordinate Benches of this Court vide orders dated 20.09.2023, 18.07.2023, 13.07.2023, 01.06.2023, 29.05.2023 and 15.05.2023 in Criminal Misc. Bail Application Nos. 38882 of 2023, 24077 of 2023, 30550 of 2023, 24906 of 2023, 24140 of 2023, and 21672 of 2023 respectively.

10. Looking to the facts and circumstances of this case, the nature of evidence and also the absence of any convincing material to indicate the possibility of tampering with the evidence, this Court is of the view that the applicant may be enlarged on bail.

11. Let the applicant-**Rishi Ram Urf Rish Ram**, be released on bail in the aforesaid case crime number on furnishing a personal bond and two sureties each in the like amount to the satisfaction of the court concerned with the following conditions which are being imposed in the interest of justice:-

i) The applicant will not tamper with prosecution evidence and will not harm or harass the victim/complainant in any manner whatsoever.

ii) The applicant will abide the orders of court, will attend the court on every date and will not delay the disposal of trial in any manner whatsoever.

(iii) The applicant shall file an undertaking to the effect that he shall not seek any adjournment on the date fixed for evidence when the witnesses are present in court. In case of default of this condition, it shall be open for the trial court to treat it as abuse of liberty of bail and pass orders in accordance with law.

(iv) The applicant will not misuse the liberty of bail in any manner whatsoever. In case, the applicant misuses the liberty of bail during trial and in order to secure his presence proclamation under section 82 Cr.P.C., may be

issued and if applicant fails to appear before the court on the date fixed in such proclamation, then, the trial court shall initiate proceedings against him, in accordance with law, under section 174-A I.P.C.

(v) The applicant 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 applicant 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 him in accordance with law and the trial court may proceed against him under Section 229-A IPC.

(vi) The trial court may make all possible efforts/endeavour and try to conclude the trial expeditiously after the release of the applicant.

12. The identity, status and residential proof of sureties will be verified by court concerned and in case of breach of any of the conditions mentioned above, court concerned will be at liberty to cancel the bail and send the applicant to prison.

13. The bail application is allowed.

Order Date :- 17.11.2023

K.K. Maurya

(Samit Gopal,J.)