

Court No. - 69

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47878 of 2023

Applicant :- Rajendra

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohd. Shaafi, Shujauddin

Counsel for Opposite Party :- G.A.

Hon'ble Samit Gopal,J.

1. List revised.
2. Heard Sri Shujauddin, learned counsel for the applicant, Sri Ajay Singh, learned A.G.A.-I for the State and perused the record.
3. Learned A.G.A. submits that he has received instructions in the matter for which time was granted on 08.11.2023.
4. This bail application under Section 439 of Code of Criminal Procedure has been filed by the applicant Rajendra, seeking enlargement on bail during trial in connection with Case Crime No. 207 of 2023, under Sections 279, 338, 304, 427 I.P.C. registered at P.S. Dhaulana, District Hapur.
5. The F.I.R. of the matter was lodged on 21.09.2023 by Manvendra Singh against unknown driver of canter bearing Registration No.UP-17-BT1193 alleging therein that he works in Aistech Company. Near Juveda farm his nephew Jitendra and Arun Kumar, have a canteen. On 20.9.2023 at about 09.30 p.m. they were working in canteen where from the other side Canter No. UP-17-BT1193 came in speed which was being driven negligently and went inside the canteen due to which his nephew Jitendra, Arun, Sachin, Shiv Kumar and Sudhir and two other customers who were eating food, were crushed amongst whom Jitendra, Arun and two others persons died on the spot whereas Sachin, Shiv Kumar and Sudhir received injuries. The incident was seen by him and others persons. The police and the people of nearby came there and the dead body was extracted from under the said vehicle.
6. Learned counsel for the applicant argued that the applicant has been falsely implicated in the present case. It is argued that the applicant is driver of the said canter from which the alleged accident has taken place. It is argued that the accident occurred from the vehicle as it went out of control. It is argued that the applicant has not deliberately or negligently driven the vehicle. It is argued that some animals came in front of the vehicle due to which the vehicle become uncontrolled and entered inside the said canteen and the incident has taken place. The applicant has no motive to commit the aforesaid offence. The applicant is having no criminal history as stated in para- 15 and is in jail since 21.09.2023.
7. Per contra, learned State counsel vehemently opposed the prayer for bail and argued that in the present matter four persons have died and three persons have received injuries. It is argued that the applicant was the driver of the said vehicle with which four persons were crushed and three persons had received injuries. It is argued that a perusal of the medical report goes to show that death of four persons and the injuries of the

injured persons were caused by being crushed by the said vehicle. It is argued that looking to the nature of the incident, number of persons who have lost their lives and also the injuries of the three injured persons, no ground for bail is made out in favour of the applicant and as such the prayer for bail be rejected.

8. After having heard learned counsels for the parties and perusing the record, it is evident that the applicant is driver of the vehicle in question which crushed 07 persons. 04 out of them died on the spot whereas three persons received serious injuries.

9. Looking to fact and circumstances of the case, nature of evidence and gravity of offence, I do not find it a fit case to release the applicant on bail.

10. Accordingly, the bail application is rejected.

(Samit Gopal,J.)

Order Date :- 28.11.2023

Naresh