

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 47781 of 2023

Applicant :- Prempal And 2 Others

Opposite Party :- State of U.P.

Counsel for Applicant :- Anil Kumar

Counsel for Opposite Party :- G.A., Dharmendra Kumar Patel

Hon'ble Sameer Jain,J.

1. Heard Sri Anil Kumar, learned counsel for the applicants, Sri Vikash Chauhan, Advocate holding brief of Sri Dharmendra Kumar Patel, learned counsel for the informant and Sri Amar Nath Vishwakarma, learned Brief Holder for the State.
2. The instant bail application has been filed seeking release of the applicants on bail in Case Crime No. 0345 of 2023, under Sections 147, 452, 323, 504, 304 IPC, Police Station Soron, District Kasganj during pendency of the trial.
3. FIR of the present case was lodged against applicants and four others and according to the FIR applicants and other accused persons on 22.06.2023 after entering in the house of Rajpal made assault upon him and due to the assault made by them he died on 27.06.2023.
4. Learned counsel for the applicants submitted that on the basis of general allegation applicants have been made accused in the present matter along with four others. He next submits that although post mortem report suggests that deceased sustained six injuries but all the injuries were abrasion and as per doctor he died due to heart failure.
5. He further submits that co-accused Vijay Pal and Pitamber have been released on bail by this Court vide orders dated 28.08.2023 and 27.10.2023 passed in Criminal Misc. Bail Application Nos. 37818 of 2023 and 37922 of 2023. He further submits that case of applicants are at par with them. He further submits that applicants are not having any criminal history and in the present matter they are in jail since 26.09.2023.
6. Per contra, learned AGA opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicants.
7. I have heard learned counsel for the parties and perused the

record of the case.

8. Although, applicants were named in the FIR along with others but only general role has been assigned to all the accused persons including applicants, who were total seven in numbers. Further, although from the perusal of the post mortem report, it reflects that deceased sustained as many as six injuries but all the injuries were abrasions and doctor opined that deceased died due to heart failure.

9. Further, co-accused Vijay Pal and Pitamber have been released on bail by this Court and case of applicants are at par with them and applicants are not having any criminal history and in the present matter they are in jail since 26.09.2023.

10. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicants are entitled to be released on bail.

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

12. Let the applicants - **Prempal, Omveer** and **Chhatrapal** 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 applicants shall appear before the trial court on the dates fixed, unless their personal presence is exempted.

(ii) The applicants 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 applicants shall not indulge in any criminal and anti-social activity.

13. 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 applicants.

14. 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 :- 8.11.2023
AK Pandey