

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48459 of 2023

Applicant :- Dheeru Alias Dheeraj Sahani

Opposite Party :- State of U.P.

Counsel for Applicant :- Mohammad Zafar Yab Khan, Shahroze Khan

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Shahroze Khan, learned counsel for the applicant and Sri Ajeet Kumar Madhesiya, learned brief holder for the State.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 25 of 2023, under Section 304 IPC & 15 The Indian Medical Council Act, Police Station- Dumariaganj, District- Siddharth Nagar, during pendency of the trial in the court below.
3. FIR of the present case was lodged against applicant and according to the FIR, wife of the informant admitted in the hospital of applicant for delivery and due to negligence of the applicant, she and her child died and on the complaint given by the complainant an inquiry was set up and during the inquiry it was found that applicant was not a qualified doctor and he was not having any degree to open the hospital and provide treatment to the patient as doctor and thereafter FIR of the present case was lodged.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and applicant admittedly is not a doctor and he never run any hospital and on the basis of false allegation, under the pressure of some villagers, complainant made complaint against the applicant.
5. He further submitted that even post-mortem report of both the deceased could not disclose, what was the cause of death and viscera was preserved and now viscera report is on record and as per the viscera report, no poison was found.
6. He further submitted that only against the applicant, charge sheet was filed but there is no evidence, which can show that either

due to negligence or conduct of the applicant, deceased and her child died.

7. He further submitted that in the month of April, 2023 complainant himself moved an application before higher authority and stated that there was no negligence on the part of doctor and due to excessive bleeding, his wife died.

8. He further submitted that applicant is not having any criminal history and she is in jail since 23.09.2023.

9. Per contra, learned AGA opposed the prayer for bail and submitted that applicant, without any qualification, was providing medical treatment and he opened a hospital with his name and during inquiry, it was found that applicant without any authority, was running a hospital and, therefore, due to his non qualification and negligence, two persons died, therefore, applicant should not be released on bail.

10. I have heard both the parties and perused the record of the case.

11. From perusal of the record, it reflects that applicant is neither a qualified doctor nor he was having any authority to run the hospital but in spite of that he was running the hospital and for delivery, wife of the complainant (victim) was admitted in his hospital and thereafter he conducted her operation and due to his negligence as a result of excessive bleeding, she died alongwith her child.

12. Further, applicant is in jail in the present matter only since 23.09.2023 i.e. for last only one and half months.

13. Therefore, considering the facts and circumstances of the case discussed above, especially, the conduct of the applicant, in my view, applicant is not entitled to be released on bail at this stage.

14. Accordingly, the instant bail application is **rejected** at this stage.

15. 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 :- 9.11.2023

KK Patel