

Court No. - 68

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48851 of 2023

Applicant :- Sachin

Opposite Party :- State of U.P.

Counsel for Applicant :- Rohit Nandan Shukla, Ramesh Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Dr. Gautam Chowdhary, J.

1. Heard learned counsel for the applicant, learned A.G.A for the State and perused the record.

2. Learned counsel for the applicant submits that initially F.I.R. was lodged by the complainant under Sections 147, 302 I.P.C. against seven accused persons in which name of applicant does not find place wherein it has been alleged that on the date of incident when he was busy in the last rites of his brother-in-law, namely, Suresh Chandra, the accused persons with intention to grab his property had killed his widow sister, namely Madhukesh and their adopted daughter, namely, Priyanka, aged about 22 years. Learned counsel for the applicant further submits that post mortem of both the deceased was conducted wherein cause of death has been mentioned as hemorrhage and shock as a result of ante mortem firearm injuries. Learned counsel for the applicant further submits that there is no whisper against the applicant in the F.I.R. lodged by the complainant but he has falsely been implicated in the case on the basis of statements of co-accused Mona and Sanjeev and on the basis of statements of witnesses, Bhola Singh, Bablu and Krishna. Learned counsel for the applicant further submits that in their statements the aforesaid co-accused, Mona and Sanjeev have not stated anything against the applicant. Learned counsel for the applicant further submits that two other persons, i.e., Sachin Baghel, S/o Mahendra Singh and Sachin, S/o Lahure Singh, have also been implicated in the case subsequently beside the applicant but the co-accused, Mona has not stated a single word with the the involvement of applicant. The complainant Bhola Singh and a witness, Bablu have not named the applicant, whereas, one witness Krishna, has only stated that Udayveer Singh and his son, Sachin (applicant), went to Delhi, but none of the witnesses have stated in their statements that applicant was present and is involved in

conspiracy of commission of offence. Learned counsel for the applicant further submits that applicant has been implicated in the case only on the basis that he is brother-in-law of the co-accused, Neeraj, who is named in the F.I.R. Learned counsel for the applicant further submits that from perusal of the F.I.R. as well as from perusal of statements of co-accused, Mona and Sanjeev and other witnesses, it is clear that main accused is Mona, who wants to be adopted by the deceased and wants to grab the property of the deceased. There is no iota of evidence against the applicant. The applicant has no relation with the deceased and he is a student of B.Sc., whose examination is going to be commenced from 23.11.2023. Several other submissions in order to demonstrate the falsity of the allegations made against the applicant have also been placed before the Court. The circumstances which, according to the counsel, led to the false implication of the accused have also been mentioned. It has also been assured on behalf of the applicant that he is ready to cooperate with the process of law and shall faithfully make himself available before the court whenever required and is also ready to accept all the conditions which the Court may deem fit to impose upon him. He next submits that applicant is languishing in jail since 06.09.2023, having no criminal history.

3. Per contra, learned A.G.A. as well as learned counsel for the informant have opposed the prayer for bail of the applicant but could not dispute the aforesaid submissions made by the learned counsel for the applicant.

4. After perusing the record in the light of the submissions made at the bar and after taking an overall view of all 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, without expressing any opinion on merits of the case, this Court is of the view, that the applicant may be enlarged on bail.

5. Let applicant-**Sachin**, involved in Case Crime No. 301 of 2023, under Sections 147, 148, 149, 302, 201, 120-B I.P.C., Police Station Gaunda, District Aligarh, be enlarged on bail on furnishing a personal bond and two heavy local sureties each of the like amount to the satisfaction of the court concerned subject to the following conditions:-

(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.

6. 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 in accordance with law.

7. The bail application is allowed.

Order Date :- 17.11.2023

Mustaqeem.