Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 48716 of 2023

Applicant :- Saudan
Opposite Party :- State of U.P.
Counsel for Applicant :- Kuldeep Singh Chahar,Kapil Kumar
Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Kuldeep Singh Chahar, learned counsel for the applicant and Sri Ajeet Kumar Madhesiya, learned AGA for the State.

2. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 122 of 2023, under Sections 147, 148, 149, 302, 392, 120B, 34 IPC, Police Station Shergarh, District Mathura during pendency of the trial.

3. FIR of the present case was lodged against 14 persons including applicant and according to the FIR on 30.04.2023 at about 7.00 AM in the morning when uncle of the informant coming back to his village then on the way, applicant and other accused persons intercepted him and assaulted him through iron rod and hammer.

4. Learned counsel for the applicant submitted that from the perusal of the FIR, it reflects that informant of the case is not an eye witness and when the statements of alleged eye witnesses were recorded during investigation then they stated that on the exhortation of the applicant and others, co-accused Keshav, Rajendra, Kishan and Raghunath made assault upon the deceased through wooden rod and hammer.

5. He next submits that there is no allegation against the applicant that he caused any injury to the deceased. He next submits that applicant is in jail since 03.05.2023.

6. He next submits that bail applications of number of accused persons, who were also nominated alongwith applicant in the FIR, have been allowed by this Court and case of applicant is at par with them.

7. Per contra, learned AGA opposed the prayer for bail but could not dispute the fact that from perusal of the statements of eye witnesses, it appears that only role of exhortation has been given to the applicant and number of co-accused persons have been released on bail and case of applicant is at par with them.

8. I have heard learned counsel for the parties and perused the record of the case.

9. Considering the fact that in the statements of the eye witnesses, which were annexed as Annexure-5 to the affidavit only role of exhortation has been assigned to the applicant and there is no allegation against the applicant that he caused any injury to the deceased and number of accused, who were nominated in the FIR alongwith the applicant, have been released on bail, in my view, applicant is entitled to be released on bail.

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

11. Let the applicant - **Saudan** 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 applicant shall appear before the trial court on the dates fixed, unless his personal presence is exempted.

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

12. 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 applicant.

13. 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 :- 23.11.2023 / KK Patel

Digitally signed by :-
KRISHN KANT PATEL
High Court of Judicature at Allahabad