

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 51623 of 2023

Applicant :- Durvesh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ravindra Pal Singh Kashyap, Akshay Kumar Shukla

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Sri Jay Singh Yadav, Advocate filed his power on behalf of the informant, today in the Court, which is taken on record.
2. Heard Sri Akshay Kumar Shukla, learned counsel for the applicant, Sri Jay Singh Yadav, learned counsel for the informant and Sri Shatruhan Yadav, learned AGA for the State.
3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No.207 of 2023, under Sections 147, 148, 323, 324, 325, 304/34, 504, 506 IPC, Police Station Mujariya, District Budaun during pendency of the trial.
4. FIR of the present case was lodged against applicant and three others under Sections 323, 504, 506 IPC and according to the FIR due to previous enmity of land on 30.07.2023 at about 3.30 PM in the afternoon applicant and other accused persons made assault upon the informant and others and due to the assault made by them they sustained injuries.
5. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Sections 323, 504, 506 IPC but after the death of one of the injured case was converted under Section 304 IPC. He further submits that however in the FIR only general allegations were made against all the accused persons including applicant but when the statement of injured persons were recorded during investigation, who were four in numbers, then they attributed the role of causing injury to deceased to co-accused Elkar and Rishipal and as per statement of injured persons it appears that applicant caused injury to them.

6. He further submits that from the perusal of the injury reports of injured persons, it appears that they did not sustain such injury, which could be categorized to dangerous for life. He further submits that applicant is not having any criminal history and in the present matter he is in jail since 01.08.2023.

7. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that as applicant along with his other family members participated in the incident and they were sharing the common intention, therefore, at this stage it cannot be said that applicant was not having any intention to cause the death of the deceased. However, they further could not dispute the fact that even as per statement of the injured applicant did not cause any injury to the deceased.

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

9. Considering the statements of the injured, which shows that applicant did not cause any injury to the deceased and injured did not sustain any injury which can be said to dangerous to the life, 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 - **Durvesh** 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 :- 2.12.2023

AK Pandey