

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49613 of 2023

Applicant :- Vashishta Narayan Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Aditya Upadhyay, Ambrish Pandey, Rudra Dutt Tiwari

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri Aditya Upadhyay, learned counsel for the applicant and Dr.S.B.Maurya, learned AGA-I, for the State.
2. The instant bail application has been filed on behalf of the applicant with the prayer to release him on bail in Case Crime No.94 of 2023, under Section 304 IPC ,Police Station Badesar, District Ghazipur during pendency of the trial.
3. FIR of the present case was lodged against the applicant under Section 304 IPC and according to the FIR, applicant is the father of the deceased and under intoxication in sudden provocation he gave blow on the head of the deceased through axe and due to assault made by him deceased died.
4. Learned counsel for the applicant submits that applicant is the unfortunate father and on the basis of false allegation, he has been made accused in the present matter and there was no occasion for him to commit the murder of his son.
5. He further submits that even from the perusal of the FIR it reflects that applicant and deceased, i.e., father and son both were under intoxication and some altercation took place on minor issue between both of them and thereafter under sudden provocation applicant gave an axe blow on his head and, therefore, admittedly

even as per prosecution applicant was not having any intention to cause death of the deceased.

6. He further submits that applicant is about 66 years old and infirm person and he is also having cardiac issue and his medical report has been annexed as Annexure-8 to the affidavit filed in support of the instant bail application.

7. He further submits that applicant is not having any previous criminal history and in the present matter he is in jail since 12.8.2023.

8. Per contra, learned AGA opposed the prayer for bail and submits that in spite of the fact that applicant was the father of the deceased he gave an axe blow on his head but he could not dispute the fact that even as the FIR itself under intoxication and in sudden provocation he made assault upon his son, i.e., deceased.

9. Learned AGA further could not dispute the fact that applicant is about 66 years old and infirm person and he was also suffering with some cardiac issues.

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

11. However, as per allegation applicant, who is father of the deceased, on minor issue gave an axe blow on the head of his son due to which he died but even from the FIR it reflects that applicant and deceased both were under intoxication and some altercation took place between both of them on the ground of minor issue and all of sudden under sudden provocation applicant gave an axe blow to the deceased, i.e., his son.

12. Further, applicant is 66 years old and infirm person and he is also having some cardiac issue and he is not having any previous criminal history to his credit and in the present matter he is in jail since August, 2023.

13 Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is entitled to be released on bail.

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

15. Let the applicant-**Vashishta Narayan Singh** 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.

16. 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.

17. 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 :- 6.12.2023
SKM