

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 49756 of 2023

Applicant :- Ramveer

Opposite Party :- State of U.P.

Counsel for Applicant :- Agnivesh, Jadu Nandan Yadav

Counsel for Opposite Party :- G.A., Karunesh Pratap Singh

Hon'ble Sameer Jain, J.

1. Sri Karunesh Pratap Singh, Advocate, filed his power on behalf of the informant today in the Court, which is taken on record.

2. Heard Sri Pranvesh, Advocate, holding brief of Sri J.N. Yadav, learned counsel for the applicant, Sri Karunesh Pratap Singh, learned counsel for the informant and Sri R.N. Srivastava, learned AGA for the State-respondent.

3. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 367 of 2023, under Sections 147, 148, 149, 307, 302 IPC, Police Station- Kotwali Fatehgarh, District- Farrukhabad, during pendency of the trial in the court below.

4. FIR of the present case was lodged against applicant and nine others and two unknown persons and according to the FIR, applicant and other accused persons on 23.07.2023 at about 08:00 a.m. in the morning made assault upon the father and brother of the informant through their respective weapons and they also opened fire and due to assault made by them, father and brother of the informant sustained injuries and due to injuries both the injured subsequently died. It is further mentioned in the FIR that applicant and other accused persons used to obtain "gunda tax" on monthly basis.

5. Learned counsel for the applicant submitted that applicant is the village pradhan and on the basis of false allegation, he has been made accused in the present matter alongwith 11 others. He further submitted that only general role has been attributed in the FIR as well as in the statements of the witnesses recorded during investigation and not even any specific weapon has been assigned to any of the accused including applicant.

6. He further submitted that when the statements of the alleged independent witnesses were recorded then they did not even disclose the name of the applicant. He further submitted that however in the statements of the informant and his family members, who also claimed themselves to be eye-witnesses, only general role has been attributed against the applicant but in light of the statements of the independent witnesses, their statements should not be believed.

7. He further submitted that although, there is specific allegation in the FIR as well as in the statements of alleged eye-witnesses that applicant and other accused persons also used fire arm but post-mortem report of both the deceased suggests that they did not sustain any injury of fire arm and this fact again suggests that on the basis of false allegation, applicant and other accused persons have been made accused in the present matter.

8. He further submitted that applicant is not having any criminal history and he is in jail since 25.07.2023.

9. Per contra, learned AGA as well as learned counsel for the informant opposed the prayer for bail and submitted that it is a bright day light incident, in which, two persons lost their lives and informant and number of witnesses were eye-witnesses and informant and eye-witnesses categorically stated that applicant participated in the incident and, therefore, even if some of the alleged eye-witnesses did not disclose the name of the applicant then also it hardly matters.

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

11. From the record, it reflects that applicant is named in the FIR alongwith other accused persons and as per the allegation, he alongwith other accused persons made assault upon the father and brother of the deceased and due to assault made by them, both died.

12. However, as per the allegation, in the incident alongwith other weapons, fire arm was also used but post-mortem reports of the deceased suggests that they did not sustain any fire arm injury but their post-mortem report suggests that they sustained number of injuries and it appears that both the deceased were brutally murdered and in the FIR as well as in the statements of the informant and his witnesses recorded during investigation allegation against the applicant is that he alongwith other accused

persons participated in the incident with their respective weapons including "*kanta, axe, ect.*".

13. However, no specific weapon has been assigned to anyone but merely on this ground, at this stage, prima-facie, it cannot be said that applicant did not participate in the incident. It is a bright day light incident, in which, two persons lost their lives and there are number of eye-witnesses.

14. Therefore, considering the facts and circumstances of the case discussed above, in my view, applicant is not entitled to be released on bail.

15. Accordingly, the instant bail application is ***rejected***.

16. 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 :- 22.11.2023

KK Patel