

Neutral Citation No. - 2023:AHC:235623

Reserved On:- 07.12.2023

Delivered On:- 12.12.2023

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50127 of 2023

Applicant :- Bahadur Alias Rambahadur

Opposite Party :- State of U.P.

Counsel for Applicant :- Neeja Srivastava, Veerendra Singh

Counsel for Opposite Party :- G.A., Shreesh Srivastava, Sujan Singh

Hon'ble Siddharth, J.

1. Heard Sri Saksham Srivastava, holding brief of Sri Veerendra Singh, learned counsel for applicant; Sri Sujan Singh, learned counsel for informant and learned AGA for State.
2. The instant bail application has been filed on behalf of the applicant, Bahadur Alias Rambahadur, with a prayer to release him on bail in Case Crime No. 301 of 2023, under Sections- 147, 148, 149, 307, 302, 34 IPC and Section 3/25 of Arms Act, Police Station- Junawai, District- Sambhal (U.P.).
3. There are allegations in the FIR that brother of the informant was sleeping in his *gher* under a tree at about 02:00 a.m in the night on 28.08.2023 when he was attacked by Jai Narayan, Vijay Pal, Hariom, Jaipal @ Kali and two unknown accused. They were armed with *lathi-danda* and illegal arms and after abusing him shot him dead. The wife of the deceased and the informant were sleeping at some distance in the same *gher*. After hearing sound of gun shot they raised alarm. He recognized the accused persons. After 4-5 minutes sound of firing was heard and the informant saw that nephew of the informant, Umesh, sleeping 60 meters

away who was also fired upon by the aforesaid accused. The brother of the informant, Pratap, was declared dead in the hospital while his nephew was referred to Aligarh. His nephew, Umesh, was shot by the accused person before, Laltesh, son of Girwar. About two and a half years ago, another nephew of informant, Nekpal, son of deceased, Pratap, had abducted sister of named accused, Laxmi, and entered into court marriage. Thereafter his family members had enmity with the family of informant which has resulted in the alleged incident.

4. Learned counsel for the applicant also submits that applicant is not named in the FIR. He has been implicated on the basis of information given by an informer. He has been implicated in the confessional statement of other co-accused which is barred by Section 25 of Evidence Act. False recovery of country made pistol and Rs. 31,250/- has been shown from the applicant when there is no witness of the same. The applicant is in jail since 07.09.2023 and has no criminal history to his credit.

5. Counsel for the informant has vehemently opposed the bail application and has submitted that later the nephew of informant, Umesh, also died. Hence, it is a case of double murder. He has submitted that the applicant was paid Rs. 50,000/- out of Rs. 2 lakhs paid to Satyapal, Rishipal, applicant and Umesh, for causing two murders out of which Rs. 31,250 was recovered from the applicant. There is no averment in the bail application nor it has been disclosed from where the aforesaid money came in his possession. He has submitted that applicant was hired for committing the alleged offence for money. Recovery of country made pistol, one empty cartridge has been made from the applicant. In the confessional statement of co-accused, his name has surfaced and specific role has been assigned to him. In his confessional statement also the applicant had admitted committed the alleged offence.

6. Learned A.G.A has also vehemently opposed the bail application of the applicant.

7. After hearing the rival contentions, this Court finds that it is not a fit case for grant of bail to the applicant at this stage.

8. The bail application is accordingly, ***rejected***.

9. The trial court is directed to conclude the trial against the applicant as expeditiously as possible, preferable within a period of one year from the date of production of certified copy of this order.

Order Date :- 12.12.2023

Rohit