

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50192 of 2023

Applicant :- Mohan Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Ajay Kumar Dwivedi

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Supplementary affidavit filed today on behalf of the applicant is taken on record.

2. Heard Sri Ajay Kumar Dwivedi, learned counsel for the applicant and Sri Ajeet Kumar Madheshiya, learned Brief Holder for the State.

3. The instant bail application has been filed seeking release of the applicant on bail in Case Crime No. 537 of 2023, under Sections 304, 34 IPC, Police Station Sirsaganj, District Firozabad during pendency of the trial.

4. FIR of the present case was lodged on 18.08.2023 against applicant and two others under Sections 304/34 IPC and according to the FIR on 17.08.2023 at about 4.30 PM, on the call of Ajay Baghel the brother of the informant had gone from his house and on 18.08.2023 one unknown person informed the informant that his brother is lying in injured condition in village Ladupur and when informant along with some other persons arrived there then his brother informed him that co-accused Ajay Baghel along with applicant and one another accused badly beaten him. It is further mentioned in the FIR that injured brother of the informant further informed that co-accused Ajay Baghel caused him maximum injuries. It is further mentioned in the FIR that when informant was taking him to the hospital then on the way he died.

5. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and only being friend of co-accused Ajay Baghel he has been made accused in the present matter. He further submits that even from the FIR and other material available on record, it appears that

principal accused of the present case is co-accused Ajay Baghel and he was having motive to commit crime.

6. He further submits that post mortem report of the deceased suggests that deceased sustained one abraded contusion on his chest and as per informant deceased before his death informed him that co-accused Ajay Baghel caused maximum injuries to him, therefore, it can be inferred that the alleged injury might have been caused by co-accused Ajay Baghel to the deceased.

7. He further submits that however applicant is having criminal history of one case but he has explained his criminal history in the supplementary affidavit filed in support of present application and in the present matter he is in jail since 29.08.2023.

8. Per contra, learned Brief Holder opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

10. Considering the fact that there is no eye witness account and entire prosecution story is based on the information furnished by the deceased to the informant before his death and as per informant co-accused Ajay Baghel is main accused and deceased sustained single injury on his chest, in my view, applicant is entitled to be released on bail.

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

12. Let the applicant - **Mohan 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.

13. 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.

14. 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 :- 1.12.2023

AK Pandey