

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50195 of 2023

Applicant :- Shiv Singh

Opposite Party :- State of U.P.

Counsel for Applicant :- Nirbhay Singh

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain,J.

1. Heard Sri Nirbhay Singh, learned counsel for the applicant and Sri Ajeet Kumar Madheshiya, learned Brief Holder for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 302 of 2023, under Section 304 IPC, Police Station- Ujhani, District- Budaun, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 09.06.2023 under Sections 326, 325, 323 IPC against applicant and three others and according to the FIR, the husband of the informant had gone to see his *bu* on 02.06.2023 and in the night at about 10:00 p.m. informant received a call that her husband sustained injuries by falling from the roof and thereafter when next day i.e. on 03.06.2023, informant arrived then found that injuries sustained to her husband could not be sustained by falling from the roof. It is further mentioned in the FIR that applicant and other accused persons assaulted him and condition of her husband is serious.
4. Learned counsel for the applicant submitted that entire allegation made against the applicant is totally false and baseless and admittedly informant of the case was not an eye-witness. He further submitted that although, during investigation, some witnesses stated that applicant and other accused persons made assault upon the deceased but some witnesses also stated that co-accused Ramu made assault upon husband of the informant and applicant is the person, who has taken him to the hospital along with his wife i.e. co-accused Kusuma Devi.
5. He further submitted that during treatment unfortunately husband of the deceased died and on the basis of general allegation

applicant has been made accused in the present matter.

6. He further submits that bail application of co-accused Kusuma Devi has already been allowed by this Court vide order dated 01.11.2023 passed in Criminal Misc. Bail Application No. 40482 of 2023 and on merit case of applicant is at par with her. He further submitted that applicant is not having any criminal history and she is in jail since 28.07.2023.

7. Per contra, learned AGA although, opposed the prayer for bail but could not dispute the argument on facts advanced by learned counsel for the applicant.

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

9. Considering the fact that only general and omnibus allegation has been leveled against the applicant and some prosecution witnesses categorically stated in their statements during investigation that applicant did not cause any injury to the deceased rather he along with others had taken the deceased to the hospital and co-accused Kusuma Devi, the wife of applicant, has already been enlarged on bail, 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- **Shiv 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.

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 :- 1.12.2023

AK Pandey