

Court No. - 70

Case :- CRIMINAL MISC. BAIL APPLICATION No. - 50481 of 2023

Applicant :- Vinod Kumar Singh Alias Sanjay

Opposite Party :- State of U.P.

Counsel for Applicant :- Sadrul Islam Jafri, Ambreen Masroor, Sr. Advocate

Counsel for Opposite Party :- G.A.

Hon'ble Sameer Jain, J.

1. Heard Sri S.I. Jafri, learned counsel for the applicant and Sri Pradeep Kumar, learned AGA for the State-respondent.
2. The instant application has been filed seeking release of the applicant on bail in Case Crime No. 105 of 2023, under Sections 323, 504, 506, 304 IPC, Police Station- Jafrabad, District-Jaunpur, during pendency of the trial in the court below.
3. FIR of the present case was lodged on 23.06.2023 against applicant under Sections 323, 504, 506 IPC and according to the FIR, some dispute was going on between applicant and family members of the informant and when father of the informant intercepted then applicant caused lathi injury to him.
4. Learned counsel for the applicant submitted that initially FIR of the present case was lodged under Sections 323, 504, 506 IPC but after 11 days when father of the informant died then case was converted under Section 304 IPC.
5. He further submitted that however, during investigation, Investigating Officer recorded the statement of the injured before his death but he could not get the same and same may be produced by learned AGA. He further submitted that there is no evidence on record, which can show that applicant was having any intention to cause the death of the deceased.
6. He further submitted that applicant is in jail since 24.08.2023.
7. Per contra, learned AGA opposed the prayer for bail and submitted that during investigation, before his death, statement of the injured was recorded by the Investigating Officer under

Section 161 Cr.P.C. and he in his statement categorically stated that applicant made assault upon him through wooden stick and, therefore, the statement of the injured since deceased recorded under Section 161 Cr.P.C. is his dying declaration.

8. He further submitted that apart from the present case, applicant is having criminal history of three other cases and he failed to explain his criminal history in the instant bail application, therefore, applicant should not be enlarged on bail.

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

10. From the record, it appears that initially FIR of the present case was lodged under Sections 323, 504, 506 IPC but after the death of the injured, case was converted under Section 304 IPC. From the statement of the injured since deceased, which was produced by learned AGA during the course of argument, it reflects that he categorically stated that applicant is the person, who caused head injury to him through wooden stick and his statement recorded under Section 161 Cr.P.C. is his dying declaration. Further post-mortem report of the deceased also corroborates his statement recorded under Section 161 Cr.P.C.

11. Further, applicant is also having criminal history of three cases and he did not explain the same. Further applicant is in jail in the present matter only since 24.08.2023 i.e. for last only three months.

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

13. Accordingly, the instant bail application is **rejected** at this stage.

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 :- 28.11.2023

KK Patel